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ASSASSINATION OF MINDSET THAT CAUSES PEOPLE TO PERPETRATE DOMESTIC VIOLENCE IN INDIA

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Abstract

The urge of non-violence has caught heard on every ear, but the depth of it stays hollow as no one can fathom it with a male dominant mindset. We have created a civilization that respects and prays to goddess but fails to acknowledge his own mother, sister, wife. It is so disheartening that India being a well-cultured and well-mannered country, the issue of domestic violence has been so annihilating. The UN had to take some steps for the protection of women and after all this India too felt to take certain steps for the same and this gave rise to inculcation of a section in IPC in the year 1983 and even after these steps taken by judiciary there was as such no change in the activities of abuse. So, the judiciary had to make a separate act for the protection of women namely the Protection of Women from Domestic Violence Act, 2005. Even after so many campaigns and laws made for the protection of women, the big question that still haunts us is, are the women protected? Are they safe?... we are still in search of an answer for the same after so many programs done to change the mindset and so many laws made not only to punish the perpetrator but also to build some fear in the mind of the people who even think about taking a step towards this kind of ill-treatment.

Keywords: - Causes nature, magnitude, domestic violence, women, India.

1. Introduction :-

“I object to violence because when it appears to do good, the good is only temporary. The evil it does is permanent.”¹ M.K. Gandhi.

The word violence means infliction on any women or man by any other man or women, who performs or manifests them in different forms such as physical, sexual, psychological and economical. The most common type of violence on woman is domestic violence. Definition of domestic violence in Protection of Women against Domestic Violence - For the purposes of this

¹ M.K.GANDHI, google, quotes by M.K.Gandhi

Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it –

- (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..... (ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity ²of woman;
- (iii) "verbal and emotional abuse" includes-
 - (a) insults, ridicule, humiliation, name calling and insults or ridicule specially 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.....taken into consideration.

Domestic Violence can be possibly considered the most important of the set of violence's against women as not only it is a matter of human rights but also a concern of public health. Very often the women, as the victims of abuse do not report the violence in fear of the perpetrator or what the society might think. In some cases the women believe that they deserve this kind of treatment for not being a good wife, daughter, sister etc. We also see that the upbringing on some children is done and professed by profanity, slapping, hitting, abusing etc. The children grow up by thinking that this abuse is “**normal**”. From the ancient time we know that women are understanding, compassionate, hardworking and adjusting which in turn backfires them, this innocence is always what gives the perpetrator the second chance even when he has committed a severe wrong. One becomes speechless when talking about the greatness of a woman and if we list some name like Mother Theresa, P.T. Usha, Kalpana Chawla and the list will go on, these women have achieved more than a lot of men but still girls, women are getting abused, molested and becoming victims of domestic violence.

We have seen a lot of international laws to protect women and for the safeguard of the rights of the women. This section lists human rights conventions and declarations that obligate countries

² The protection women from domestic violence act, 2005

that have ratified these conventions to treat violence against women as a human rights violation and to incorporate international standards into their domestic legislations. Also included in this section are strategy frameworks and policy documents that address VAW (Violence against women). Deducing from all the international policies, in the year 1961 India also introduced the Dowry Prohibition Act for suppressing the give and take of dowry. India also felt the need of developing and introducing the section 498 in Indian Penal Code in the year 1983, for the sole purpose of safety of women from the cruelty that they suffer from their husband and marital side. After a lot of events and a rise in the crime of domestic violence, the government and the “independent judiciary” had to take some important steps and this gave rise to an act namely Protection of Women from Domestic Violence Act, 2005, for the sole purpose of protection of women from all the forms of domestic violence. The government also took a lot of measures and ordered the police to make a squad of women police officers for the purpose of patrolling and to help the women & girls who are suffering from domestic violence.

2. Causes of Domestic Violence:-

Domestic violence is very common in India because male dominant society is what exists in India, an orthodox and idiotic mindset that has been inculcated in the minds of male has given rise to domestic violence and most importantly the thinking process that women are weak and inferior and men are stronger and superior. “If all men are born free, how is that all women are born slaves?”³ You also notice that women fear leaving the perpetrator rather than fearing the presence of that perpetrator. It has also been noticed that majority of the time men are under the influence of liquor while abusing their wives and to an extent they have no clue about whatever they are doing. Using of physical strength by a man on his spouse in the form of direct or indirect physical harmful behavior or by physically aggressive behavior, all that which constitutes physical violence is kicking, hitting, slapping or using a weapon to threaten.

³ MARY ASTELL, Google quotes on marriages

Physical violence can be also constituted by harassing someone sexually and sexual violence is an integral part of domestic violence. In which having past consent to any sexual activity does not give consent to current sexual activity. Sexual abuse involves both physical and verbal misbehavior i.e. by making fun of someone's private parts, laughing, defaming, passing offensive statements which can be termed as verbal misbehavior amounting to sexual abuse. Using of sex in an exploitative fashion i.e. by making contact with the victim in any non consensual, involving the victim in sexual activity by intoxication, drugs, disability fear of dependence of the victim on the perpetrator which is what happens in majority of cases leading to sexual violence. Economical violence is another type in which the actor of the crime deprives the women from the basic needs like food, money, shelter etc. Even when the women is a sole earner of the family due to the male dominance loses all her money in the hands of the actor, bearing the deprivation.

Another main cause that can be considered for the abuse against women is lack of education which leads them to lack of awareness, due to which they do not or fail to approach the police believing that why should we involve the police in our personal matter or with a mindset that the procedure for complaining would be lengthy and time taking. Being uneducated the victims are unaware of the provisions, laws and policies made for protection of their rights, due to this they fail to avail the remedies for their rights. Children having seen their parents, where in the father hits the mother for very small things, imbibe the same, this custom carries from generations to generations. The culture, religion and beliefs that we follow are of "Pati Parmeshwar" (husband = God), and this is taught to the girls since their childhood and this restricts them from acting independently or taking certain actions for the act of the perpetrator. The victims or the women living in the 21st century believe in KARMA and think that all the wrong deeds of the perpetrator will be taken care by God rather than complaining. We talk about development and modernization but still we find dowry deaths, female infanticide etc prevailing in majority of marriages. Even when the dowry prohibition act was passed in the year 1961, we still notice a lot of give and take of dowry and once given or taken the desire to get more keeps on increasing. It is the tendency of humans that they never get satisfied and when these needs aren't met it gives rise to domestic violence. When the women fail to give birth to a child, they are criticized, targeted and taunted even when they are not mistaken in doing so, and when they give birth to a girl, they are scolded and defamed and looked down upon by their relatives and other people in the society, the culprit is the husband. If we go and check with the medical sciences the sex of the child is being determined by the father's

emission. But for the mistake or even if we consider it as a natural thing, the father isn't blamed a bit.

Nuclear families where only husband and wife together, the chances of women being a sufferer is more and because there is nobody to guard her, she cannot even express the kind of ill-treatment she goes through, she is made the prisoner in her own house. Emotional violence is considered to be a type and also a very important cause for domestic violence in which a person is exploited by another on his vulnerability, insecurity and hurting the character's mental ability to think. There are various methods that give rise to emotional violence are manipulating, brainwashing, continuously degrading the character and attacking the self-esteem of the victim. The perpetrator keeps on humiliating, passing statements or making gestures on the victim which is ill towards her. Isolation and intimidation also are a cause that constitutes emotional violence. The child, the family members who are witness to this kind of criminal offence and are also disturbed mentally as well as physically by all the act happening in the surrounding. The neighbours and even the people passing by are disturbed by the noise but we also see that no one dares or even cares or has the grit to take one step forward and save someone's life and punish the wrong doer. Being a law student we have always heard that the person who commits crime is a criminal but the person who witnesses it and does nothing about it is a bigger criminal.

Nature & Magnitude of Domestic Violence

There has been a constant rise and growth in the cases of rape, dowry death and domestic violence. When we notice that since the year 1983 the first step towards protection of women from domestic violence and further a lot of bills and acts for the same too but what we haven't noticed is a stringent law or an atmosphere where the people committing a grievous crime like domestic violence are not afraid or frightened to commit the crime once more because the law or policies aren't strict.

According to United Nations study home is the most dangerous place for a woman. Various other surveys found out that 27 percent of the women have experienced and suffered physical violence since the age of 15yr in India and it is also seen that physical violence is more than in the rural areas compared to the urban areas, which are at 29 and 23 percent respectively. Majority of the times the actor of this grievous crime have been the husbands. Approximately 31 percent of women have experienced different types of domestic violence and ill treatment by their spouses. In these

acts 27 percent is physical violence and 13 percent is emotional violence. From the reports of the survey the married women who have experienced physical violence, 83 percent have reported that husband was the perpetrator of the violence. However, one has also noticed that if the women is not married they have experienced domestic violence from mother, step-mother, father, step-father, brother, sister and teachers. It is also noticed that the abuse which was done injured the victim's ribs, burns on skin, broken teeth, fractured bones etc. Even after so much loss it is a surprise that women are supportive to this kind of violence. The elephant in the room, India is one of the countries where forced sexual intercourse with one's spouse without her consent i.e. marital rapes is still not an offence as under section 375 of IPC considers marital rape as an offence only when the girl is below the age of 15yr.⁴

3. Strategies To Combat The Issue Of Domestic Violence :-

Human rights convention and declarations that are an obligation to countries have ratified to these policies for the suppression of violation of human rights and to incorporate international standards in their state's legislation. The following are the strategic framework and the policies documented for the violation against women.

- Universal declaration of human rights:- This was adopted in the year 1948 by 58 members of the United Nations, it defines human rights as a fundamental right of the humans and all the states should take certain actions to protect the human rights of all being.
- Convention on elimination of all forms of discrimination against woman (CEDAW) :- CEDAW was adopted by the United Nations general assembly in the year 1979 which was ratified by 187 countries. CEDAW does not absolutely and explicitly mention VAW but it definitely describes and defines what has constituted and what to constitute for discrimination against women. This brought a revolution and almost put an end to the discrimination against woman and girls.
- United Nations declaration of elimination of violence against woman:- It was adopted by the UN general assembly in the year 1993.

⁴ News18.com

- UNFPA strategy and framework of action to addressing gender based violence 2008-11:- it eradicated the gender biasness.⁵

It is estimated that around 37 percent of the women in India have experienced physical or sexual violence in their lifetime. If we go according to the India's national crime records bureau the crime of domestic violence was on a high but nowadays it's on the low and the social stigma to reveal that they are victims is also on a high. There are certain steps that have been taken by the Indian government from the influence and guidance and pressure of the International bodies to improve the regulation of rising need for the protection of woman. And the following are some laws that have been enforced to an extent which properly inculcated for the safeguard of rights of woman:-

- ❖ The Indian Penal Code, 1860's amendment in 1983:- A special section which was included in the IPC numbering 498-A for making domestic violence a criminal offence. This new section specifically covers the cruelty done by the husband or the husband's family towards a married woman. It also contains certain provisions that the victim's well-wishers and family members can lodge a complaint on behalf of the deceased. As there are chances that the victim would be caught by the perpetrator complaining and this would result to greater violence against her. This covers the punishable, aggressive and intolerable behavior of the husband or his family towards the victim. It also covers the verbal and emotional harassment by the perpetrator. Under this policy acts of cruelty include :-
1 Physical abuse, 3
2 Mental torture through threats to her or her loved ones 4
Not giving food and isolating her for punishing 4
Demanding sexual acts against her will

These are the main causes as well as the heads covered under this section but this section has a wider scope of domestic violence. This section also punishes the accused for 3 years of prison as well as a hefty penalty (fine).⁶

- ❖ The protection women from domestic violence act, 2005:- This is the first law in India that has specifically acknowledged every woman's right to be in a place without being a victim of domestic violence. In fact it is considered to be major step for the safeguard and

⁵ UN research paper on domestic violence

⁶ IPC,1860

protection of the rights of woman, one of the most effective for them. It is a lengthy but comprehensive act detailing all the important policies and procedure to help women. It gives detail and defines domestic violence : Actual or threats of physical, mental, emotional, sexual or verbal abuse as well as harassment done regarding the give and take of dowry or regarding property. As section 498-A of the IPC also gives the right to the family of the victim to lodge a complaint similarly this act also gives that right. It also clearly recognize the matrimonial household of the victim and if she evicted from the house, she has the right to have monetary compensation from the family and safe shelter also legal and medical aid. NGO's and the government have taken a lot of steps for the betterment and protection of women from domestic violence by arranging seminars and lectures for the awareness of the rights given to them.⁷

- ❖ The criminal law amendment, 2013:- The burden of proof was on the defendant. New offences which were punishable by law were introduced which include acid attack, stalking, voyeurism and publically forcefully disrobing a woman. But this amendment failed for the issues regarding the marital rape. There was a ridiculous notion that implied rape cannot be committed within a marriage.⁸
- ❖ Crime against women cells:- The government of India took initiative to help women from domestic violence by introducing women cells. This program begun in the year 2010 and consisted a desk for direct assistance by specialized police officers trained for the special purpose of taking care of the victims. The police also are present on the desk for assistance to the deceased for filing a complaint.⁹
- ❖ Police Patrolling :- A special squad of police does patrolling all day, all night for the protection of women.

4. Conclusion

From the above research we have successfully deduced the causes, nature, magnitude & the types of domestic violence which have been quite disturbing & very disheartening. Even after such modernization & development in every aspect. Is it the question of law or

⁷ The protection women from domestic violence act, 2005

⁸ The criminal law amendment, 2013

⁹ National Crime Records Bureau,2/2/2019

whatever the customs people follow? The question of law, since the year 1983 Indian government and judiciary has adopted measures to prevent any sort of domestic violence. “Family is supposed to be your safe heaven. Very often, it’s the place where we find the deepest heartache” Iyanla Vanzant¹⁰. Family is the place where the abuse is born and even nurtured. The male dominance in India has been a custom and is being followed in a lot of families; the new generation has been seeing & is use to this type of behavior. In our perspective this generation is much more mature & understands the consequences of their acts. There has been a urge of non violence past 2-3 generation, which is only heard but never implemented, as the custom of male dominance has only been spoken of but never controlled. Even after so many law and policies what more do we expect from the judiciary, what needs to change is the mindset and the wrong customs that are followed in India, as we know that for every wrong judiciary cannot be a solution rather if we focus on our morals and ethics we can restrict this abuse to a greater extent. After this we would be able to make some strict laws by increasing the punishment of the accused. Despite the campaign of #metoo wherein the suppressed girls finally could gather enough courage to express their distress over the issue of domestic violence, but still this issue prevails in our so called ethical society and majority of theists, who believe in female goddesses but fail to respect the women in their surroundings. So, we suggest that both the judiciary and the mindset should be reviewed, both need to be each others’ helping hand because one cannot go ahead without the other even if one goes alone he will go limping and slow which will do no good and might weaken the solution more.

¹⁰ Healthyplace.com