

The Effect of Domestic Violence on Women Mental Health

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UNDER SUPERVISION OF:

MS SONALI YADAV
(Assistant Professor)
School of Legal Study
BBD University Lucknow

SUBMITTED BY:

PRATIMA SINGH CHAUHAN
Roll no. 1190997038
Criminal and Security Law
BBD University Lucknow

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PRATIMA SINGH CHAUHAN

ROLL No. **1190997038**

L.L.M. (2019-20)

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This is to certify that PRATIMA SINGH CHAUHAN, student of the L.L.M. Second semester, Babu Banarasi Das University, Lucknow has worked on the topic titled “**The Effect of Domestic Violence on Women’s Mental Health**” under my supervision. To the best of my knowledge the dissertation embodies the original work of the candidate herself and findings and dissertations put forth in dissertation are her own, formulated after perusal of primary and secondary resources cited in this dissertation.

Date:

Under the supervision of

MS SONALI YADAV
ASSISTANT PROFESSOR
School of legal studies
Babu Banarasi Das University.

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List of Abbreviation

AC	Appeal Cases
AIR	All India Reporter
AIDS	Acquired Immunodeficiency Syndrom
ALJ	Allahabad Law Journal
AV	Atherva Ved
CAW	Crime Against Women
CAWC	Crime Against Women Cell
CCA	Contempt of Courts Act, 1971
CCR	Current Criminal Reports
CEDAW	Convention on Elimination of All Forms of Discrimination Against Women.
CPC	Civil Procedure Code, 1908
Cr. LC	Criminal Law Cases
Cr. LJ	Criminal Law Journal
Cr. P.C	Criminal Procedure Code, 1973
CWDS	Centre for Women's Development Studies
DV	Domestic Violence
DMC	Divorce and Matrimonial Cases
DMMA	The Dissolution of Muslim Marriage Act, 1939
DV Act	Domestic Violence Act, 2005.
FIR	First Information Report
HAMA	Hindu Adoption and Maintenance Act, 1956
HC	High Court
HL	House of Lords
HLR	Hindu Law Reporter
HMA	Hindu Marriage Act, 1955
HIV	Human Immunodeficiency virus
IDA	The Indian Divorce Act, 1869
IE Act	Indian Evidence Act, 1872

IJSW	Indian Journal of Social Work
IPC	Indian Penal Code, 1860
IPV	Intimate Partner Violence
JILI	Journal of Indian Law Institute
JT	Judgment Today
LR	Legal Remembrancer, Law Review
MTP	Medical Termination of Pregnancy Act, 1971
MWA	Muslim Women (Protection of Rights on Divorce) Act, 1986
NCRB	National Crime Record Bureau
NCW	National Commission for Women
NGO	Non-Government Organization
PTSD	Post Traumatic Stress disorder
RCR	Recent Criminal Reports
ROC	Restitution of Conjugal Rights
S.C.J.	Supreme Court Journal
SC	Supreme Court
SMA	The Special Marriage Act, 1954
STD	Sexually transmitted diseases
SRA	Specific Relief Act, 1963
UJ	Unreported Judgments
UNO	United Nations Organization
UOI	Union of India
VI	Vedic Index, by A.A. Macdonell and A.B. Keith
Vol.	Volume
WHO	World Health Organization

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EFFECT OF DOMESTIC VIOLENCE ON WOMEN'S MENTAL HEALTH CHAPTER I GENERAL INTRODUCTION

1.1 Introduction

According to the Merriam Webster Dictionary, “domestic” relates to or involves someone’s family or home and “violence” simply put, means the use of physical force to harm someone, to damage property, etc

Domestic violence (DV) and abuse is threatening behavior, violence or abuse between adult who are relatives, partners or ex partners. It includes abuse from adult children and from parents of adult children, DV is a breach of human rights as well as a major public health and clinical problem. it has been shown to be associated with a range of mental health problems, including depression, post-traumatic stress disorder (PTSD), suicidal ideation, substance misuse, functional symptoms, and the exacerbation of psychotic symptoms.¹

Phenomenon of DV is a one of the most pernicious methods adopted by patriarchal society system to keep women subordinated. Incidences of DV have been reported since time immemorial. It is not confined to any one region or society. Nevertheless, it is recently been recognized as such, and attempts to conceptualize it as well as analyze its causes and types have been few.

DV in a way is a social problem where in large majority of cases always the female members of society are the victims. Many other social problems are also having their relation with DV. The women have to face or experience one or other kind of violence at the hands of the male members of the family. This social problem is particularly true in patriarchal societies where the male members, enjoy superior status as compared to women members in the family and is endowed with authority and power which he uses at his will and discretions. Women in most of the cases are deprived of control their rightful place in society and are reduced to subordinate status. They are deprived of all the privileges, powers, exercised by their counterpart or male member in society. DV remains invisible because whatever is happening within the four walls of a house is regarded as ‘private

¹ Louise M. Howard, Gene Feder, Roxanae Agnew-Davies, Domestic Violence & Mental Health :the Royal College of Psychiatrists ; Bell and brain Limited , Glasgaw, UK (2013) page 1-28

matter'. Any interference in this matter is considered as a bad manner. The issue of DV emerged as a result of women's movements. Women across the world irrespective of age, class and socio-economic status face violence of all kinds. Incidents of physical violence on women from slapping to various other atrocities go unnoticed and its high time women must raise voice against it. DV in its fullest sense describes a wide range of acts, which may include physical, sexual, psychological, emotional and financial abuse that one person in an intimate or family relationship uses to control the other. DV may occur in different relationships. There are more chances of some individuals becoming victims due to different family backgrounds or structures. DV and abuse are used for one purpose only to gain and also maintain total control over the other especially wife. An abuser doesn't "play fair". Abusers use fear, guilt, shame, and intimidation to wear the woman down and keep her under his thumb. Husbands may also threaten to hurt his wife or hurt those around her.

The concept of equality between male and female was almost unknown to us before enactment of the Constitution of India. The Constitution, which is the supreme law of the land, seeks to secure to its citizens including women folk, justice-social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and opportunity and promote fraternity assuring dignity of the individual.² Women constitutes about one-half of the global population, but they are placed at various disadvantageous positions due to gender difference and bias. They have been the victims of violence and exploitation by the male dominated society all over the world. Indian society is a tradition bound society where women have been socially, economically, physically, psychologically and sexually exploited from time immemorial, sometimes in the name of religion, sometimes on the pretext of writing in the scriptures and sometimes by the social sanctions. The manifold problems associated with DV have been systematically exposed by data and in depth work undertaken by several people in the women's movement reported by recent studies such as the National Family Health Survey and National Crimes Records Bureau.³ Women were granted equal status with men. The government made an all out effort to raise the status of women in the various fields through legislation. Compulsory Education, the Hindu Marriage Act, 1955, raising of marriageable age, the Adoption Act, 1956, Dowry

² The Preamble of The constitution of India, 1950.

³ NCRB,MHA, State /UTs-wise Numbers of cases Registered (CR), under Domestic Violence during 2014 and 2015

Prohibition Act, 1961 and legalizing of abortion are all in favour of women. But the law alone is not enough to bring about a radical change.⁴

Some studies showed poor mental health status and more suicidal tendencies when compared with women who had not experienced violence.⁵ Woman in India is still surrounded by violence, neglect and exploitation. What is the price fixed for a woman's services day and night within the household? Love is the reward, but where is the reward of the husband and the in-laws don't appreciate the bride's services? Perhaps nowhere, except the fire on her clothes and her body. This is happening everywhere in our country these days and the number is increasing alarmingly. Even the educated urban and well informed women are exposed to such events. The Committee on the Status of Women in India (1974) rightly concludes that "the entire exercise of our committees has indicated that in certain important areas and for certain sections of the female population there has been repression from the normative attitudes developed during the freedom movement. Large section of women have suffered a decline of economic status. Even after the promulgation of these laws (legal measures), the protection enjoyed by the large masses of women from exploitation and injustice is negligible. Though women don't numerically constitute a minority, they are beginning to acquire the features of a minority community by the recognized dimensions of inequality of class, economic situation, status (social position) and political power. The chasm between the values of a new social order proclaimed by the constitution and the realities of contemporary Indian society as far as women's rights are concerned remains as great as at the time of independence.⁶ Last year the Parliament not only passed the landmark Bills in favor of Women and Children but also passed many other Bills and created a record to pass maximum Bills in the last 67 years like The Muslim Women (Protection of Rights on Marriage) Bill, 2019 also known as triple Talaq bill and previous like The Dowry Prohibition Act, 1961 the Suppression of Immoral Traffic, (Prevention) Act 1961, the Indecent Representation of women (Prohibition) Act, 1986 and the protection of women from DV act, 2005 are the acts that such initiative that protect women right from DV.

⁴ Khanna, Verghese, Indian Women Today (1978), pp. 3-4; 40

⁵ Sharma, K. K., Vatsa, M., Kalaivani, M., & Bhardwaj, D. (2019). Mental health effects of domestic violence against women in Delhi: A community-based study. *Journal of family medicine and primary care*, 8(7), 2522–2527.

⁶ Mazumdar, Veena, Towards Equality, (1974), p. 29.

1.2 OBJECTIVE OF THE STUDY

- To know the effect of DV on women.
- To find out the causes of violence against women.
- To know the effect of DV on women mental health .
- To study the socioeconomic consequences of DV on women.

1.3 HYPOTHESIS

Hypothesis lays on important and dominating role in any social research.

- i. Prevalence studies estimated proportion of population that has suffered DV during adult life or during a specified time period.
- ii. DV is experienced more by women in rural areas compared to urban areas.
- iii. DV is more experienced in those families in which the male partner is alcoholic.
- iv. Whether the existing legal framework is sufficient to check the DV against women or needs modifications in order to overcome drawbacks and defects.
- v. Studies across psychiatric setting worldwide identified that DV causes a high prevalence of psychiatric problem in socioeconomic deprivation groups.

1.4 Research Methodology

The methodology of research differs according to the subject. This study is Doctrinal in Nature. The research extends up to the studying the effect of DV on the woman mental health. The problem faced by women on his mental and physical effect and what all measure need to be minimize. The document includes empirical method of study with the help of various data available on internet.

1.5 LITERATURE REVIEW

There are number of studies related to gender based violence, violence against women, abduction, DV , rape, acid attacks, dowry related violence,

Neelima Dutta (1999) published a paper in Economic & Political Weekly, stated that the recognition of violence as a serious human rights violation of women is a recent phenomenon. The notorious rule of thumb was upheld as recently as in the early 20th century. The author argues that in India, though provisions such as 498A IPC have introduced, our poor judicial and penal records underscore the crying need for a comprehensive legislation on violence against women.⁷

Panicker (1999) published in “Cruelty Within Walls: Legal Redress for Domestic Violence in Legal News and Views and emphasized on the domestic violence and its causes.” The paper presented statistical estimates of domestic violence. Forcible sex too falls within the ambit of domestic violence as does humiliation or embarrassment in public. Compelling a woman to undergo a sex selection or a demand for dowry too amount to violence. A fresh legal look at these aspects cannot be put off any further in the face of the steady rise in incidents of crimes against women. Dowry deaths are growing by 8.3 per cent every year, torture and cruelty by husbands and relatives by 13.2 per cent. In contrast conviction figures are dismal. India which is a party to several international instruments dealing with elimination of discrimination against women cannot afford to continue with this attacking apathy towards half of its population.⁸

Veena Poonacha and Divya Pandey (1999) published a paper esponses to Domestic Violence in Karnataka and Gujarat and assessed organized responses to domestic violence currently available in two states of India: Karnataka and Gujarat. Domestic violence was first defined broadly to comprise those acts of intimidation and cruelty such as mental, emotional, financial, and physical abuse of a woman, which may make a woman or her family members seek the support of agencies outside of the family and kin group. The study, therefore, is designed to examine the response by these public agencies to matters previously relegated to the private sphere. The study covered 60 organizations in Karnataka and 100 organizations in Gujarat and surveyed through questionnaire. The research undertaken has helped to document

⁷ Neelima Dutta (1999): Domestic Violence - Tolerating the Intolerable? Economic and Political Weekly. 14(1) January, 1999. P. 4-9.

⁸ Panicker, Lalita (1999): Cruelty Within Walls: Legal Redress for Domestic Violence. Legal News and Views. Vol. 13. No. 7. July 1999. P. 16-17.

the range and variety of responses to domestic violence in Karnataka and Gujarat, and to identify some differences in the quality and sustainability of strategies. It is evident from this initial survey that some combination of reactive or immediate responses and proactive or long-term responses is necessary in every community. Family reconciliation is clearly a commonly desired end sought by most community intervention strategies and this is a telling and significant feature of the social response to violence against women in India.⁹

Visaria (2000) published an article “Violence against Women: A Field Study in Economic & Political Weekly”. This article presents the results of an enquiry into domestic violence conducted in rural Gujarat. The sample survey shows the severity and the endemic nature of violence. Forms of and reasons for violence as also social and demographic characteristics associated with violence are discussed.¹⁰

Malhotra (2004) published a book entitled “Dimensions of Women Exploitation”. Women have been oppressed, suppressed, marginalized rather colonized by men since antiquity. They have been carefully and systematically excluded from all the important spheres and for along time they remained, condemned to home and hearth. Women are subject to discrimination not just on the basis of gender but on the basis of numerous other factors such as caste, community, religious affiliation and class. Despite many positive developments in securing women’s human rights, discrimination against women continues to be embedded in the social system in many parts of the world, denying the majority of women the choice to decide how they live. Female feticide continues to be common. Poor families have little interest in educating girls and will often engage them in marriage as children to ensure they are taken care of economically. The working often objects of sexual harassment and many of them are getting low payment for their job. Levels of crime against women including rapes, kidnappings, instances of dowry death, mental and physical torture, sexual molestation and harassment and trafficking are increasing day-by-day. The book discussed various issues related to the female exploitation and women’s emancipation. It is valuable reference tool for policy makers, academics, women’s associations, social welfare agencies and women activists¹¹

⁹ Veena Poonacha and Divya Pandey (1999): Responses to Domestic Violence in Karnataka and Gujarat. IN: Domestic Violence in India: A Summary Report of Three Studies. International Center for Research on Women: Washington, DC, September, 1999. P. 39-53.

¹⁰ Visaria, Leela (2000): Violence against Women: A Field Study. Economic & Political Weekly. May 13, 2000. P. 1742-1751.

¹¹ Malhotra, Meenakshi (2004): Dimensions of Women Exploitation. Delhi: Isha Books, 2004.

Kaur and Garg (2010) published an article “Domestic Violence Against Women: A Qualitative Study in a Rural Community” in „Asia-Pacific Journal of Public Health“. Domestic violence is a major contributor to physical and mental ill health of women and is evident, to some degree, in every society in the world. The World Health Organization reports that globally 29% to 62% of women have experienced physical or sexual violence by an intimate partner. Ending gender discrimination and all forms of violence against women requires an understanding of the prevailing culture of bias and violence. The present study was conducted in a rural area in India. Focus group discussions (FGDs) were conducted among married women in the age group of 18 to 35 years. Physical violence was a major cause of concern among these women. Some women had to suffer even during pregnancy. An alcoholic husband emerged as the main cause for domestic violence. Husbands’ relatives instigating wife beating was also common. Majority of the women preferred to remain silent despite being victimized. The women feared to resort to law because of implications such as social isolation. To address this, all sectors including education, health, legal, and judicial must work in liaison. Gender inequality must be eliminated and equal participation of women in the decision-making and development processes must be ensured¹²

Nirupama Prakash (2011) published an article entitled “Domestic Violence Against Women in Rural Rajasthan, India: A Sociological Analysis”. Domestic violence is one of the crimes against women which is linked to their disadvantageous position in the society. Internationally, one in three women have been beaten or abused by a member of her own family. Though violence against women in the family is a global phenomenon, yet its ramifications are more complex and its intensity much greater in India. The status of women fits into a vicious circle of mutually reinforcing gender inequalities and patriarchal practices in Rajasthan. The present study was conducted in two villages near Pilani, Rajasthan during January–June 2009. Main objectives of the study were to explore the incidence, type, and cause of violence among women and to examine the awareness level of —Prevention of Domestic Violence Act 2005. Simple random sampling technique was used. Respondents were married women within the age group of 15–50 years. A total of 150 women were interviewed. A statistically significant relationship was found between violence and women’s age, caste, structure of family, literacy

¹² Kaur, Ravneet and Garg, Suneela (2010): Domestic Violence Against Women: A Qualitative Study in a Rural Community. *Asia-Pacific Journal of Public Health*. Vol. 22. No. 2. April 2010. P. 242-251

level of women, husband's level of education, and husband's alcohol consumption. Not a single case of violence was reported to the police.¹³

Varghese et al. (2013) published a paper "Domestic Violence as a Risk Factor for Infant and Child Mortality: A Community-based Case– control Study from Southern India" in *The National Medical Journal of India*. Violence against women may have an impact on infant and child mortality. The study aimed to determine whether domestic violence is a risk factor for infant and child death. Eighty infant and child deaths (under 5 years of age) were identified from a central register of a comprehensive community health programme in rural southern India; controls were matched for age, gender and street of residence. Domestic violence during the lifetime (OR 2.63, 95% CI 1.39–4.99), which was severe (OR 4.00, 95% CI 2.02–7.94) and during pregnancy (OR 5.69, 95% CI 2.03–15.93) and father's smoking status (OR 3.81, 95% CI 1.92–7.55) were significantly related to infant and child death while immunization being completed for age (OR 0.04, 95% CI 0.01–0.19) and having at least one boy child in the family (OR 0.29, 95% CI 0.14–0.59) were protective. These variables remained statistically significantly associated with outcome after adjusting for other determinants using conditional logistic regression. There is evidence for an association between domestic violence in mothers, and infant and child death.¹⁴

Sharma et al (2019) published paper of community-based study in *Journal of family medicine and primary care* (DV) against women is an all-pervasive phenomenon considered to have serious health consequences for women. This study aimed to assess the association of DV against women with their mental health status. The prevalence of psychological, physical, sexual, physical, or sexual violence and any form of violence was very high. A quarter of the women (25.3%) reported unhealthy mental status (>8 score) in the past 4 weeks. Women who had experienced DV showed poor mental health status and more suicidal tendencies when compared with women who had not experienced violence.

¹³ Nirupama Prakash (2011): Domestic Violence Against Women in Rural Rajasthan, India: A Sociological Analysis. IN: Democracies: Challenges to Societal Health (Research in Political Sociology, Vol. 19), Emerald Group Publishing Ltd, 2011. P. 89 -102.

¹⁴ Varghese, S et al (2013): Domestic Violence as a Risk Factor For Infant and Child Mortality: A Community-based Case–control Study from Southern India. *The National Medical Journal of India*. Vol. 26. No. 3. 2013. P. 142-146.

CHAPTER II

Domestic Violence in View of Indian and International Prospective

2.1 Domestic Violence in View of Indian Prospective

Violence is a complex concept; violent behaviour can be defined and categorized in a variety of ways. Violence has frequently been used interchangeably with the term “aggression” while violence typically refers to a physical act, aggression frequently refers to any malevolent act that is intended to hurt another person. The hurt may not be only physical but may be emotional injury or material deprivation.¹⁵ Further, there are negative connotations of the term “violence”, some investigators have tried to differentiate between hurtful violence and more permissible acts¹⁶

According to few studies domestic violence has been defined as “day today patterned and recurrent use of physical violence like pushing, slapping, punching, knifing, shooting and throwing objects by one member of the family at another”.¹⁷ Most of the studies on domestic violence have limited their scope to physical violence involving members of the family.¹⁸ These studies have overlooked psychological violence like suppression, harassment, domination, humiliation, insult and public embarrassment, all of which are more fully captured under another definition which defines domestic violence as “any act of commission or omission by family members and any condition resulting from such acts and inaction which deprive other family members of equal rights and liberties or interfere with their optimal development and freedom of choice¹⁹

Shenoy (2007) has rightly pointed out “Violence within families is as old as the institution itself. It seems that it occurs in almost all cultures and countries across all known divisions of wealth, race, religions, castes and social class. There may never have been a time when it did not exist, and it certainly stretches back deep into history. Centuries indeed millennia are filled with

¹⁵ Amarjit Mahajan and Madhurima, *Family Violence and Abuse in India*, (New Delhi: Deep and Deep Pub., 1995), pp 16-17.

¹⁶ Goode, W, “Force and Violence in the Family”, (1971) 33 *Journal of Marriage and the Family*, pp 614 -36

¹⁷ Gelles, R.J., *The Violent Home: A Study of Physical Aggression between Husbands and Wives* (Beverly Hills: Sage., 1971).

¹⁸ Gelles, R.J., and Straus, M.A., ‘Determinants of Violence in the Family: Toward a Theoretical Integration’, in Burr, W.R., Hill, R., Nye, F.I., and Reiss, I.L., (eds.) *Contemporary Theories about the Family*, Voll., (New York: Free Press, 1979), pp 549-89

¹⁹ Pagelow, M.P., *Family Violence*, (New York: Praeger, 1984)

millions of assaults, attacks, rapes, violations, psychological abuses, maimings, killings of women in their own homes by men.” There is a growing body of evidence which suggest that domestic violence leads to family bread down negative consequences for female mental health and deaths.²⁰ Ganatra, Coyaji and Rao (1998) conducted a study of 400 villages and seven hospitals in rural India found that 16 per cent of all deaths during pregnancy were the results of partner violence.²¹

In response to such findings the protection of women from Domestic Violence Act 2005 was enacted. The new Act aims to offer better protection to women by defining domestic violence exhaustively, expanding the scope of the marital relationship to include second marriages and live-in-relationships. It attempts to create new more vibrant institutional climate by focusing on training programmes, refresher courses, special cells in police stations, working towards gender protocols. Important aims of these efforts are to sensitize the personnel of the institutions to the realities of women’s lives, their unequal status; lighten the loopholes in law and its practice; simplify the procedures with a view to make these institutions more accessible to women.

The main Object of the Domestic violence Act 2005 is protection of women from violence inflicted by a man or/and a woman. It is a progressive Act, whose sole intention is to protect the women irrespective of the relationship she shares with the accused. The definition of an aggrieved person under the Act is so wide that it taken within its purview even women who are living with their partners in a live in relationship.

In this Domestic violence 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

(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

²⁰ Shenoy, M. 2007. Domestic Violence. Aavishkar Publications, Distributors. Jaipur.

²¹ Ganatra, B.; Coyaji, K., and Rao, V. 1998. Too far, too little, too late : a community – based case control study of maternal mortality in rural west Maharashtra. Bulletin of the World Health Organization. 76 (6).

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—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) 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, house hold 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 house hold 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

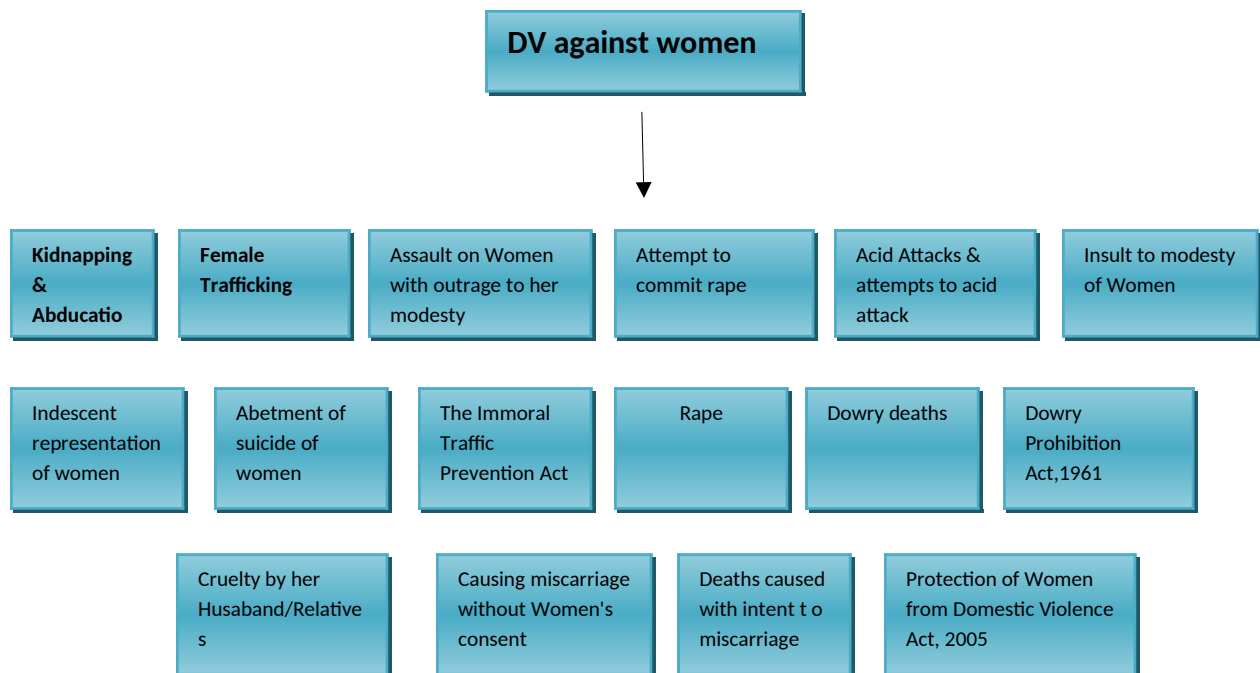
(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.²²

Violence against women strongly hinders women’s full participation in society and maintains an oppressive and coercive pattern of control of men over women. Women are not even considered safe at their home as a major form of violence called ‘domestic violence’ is very much prevalent in Indian society. A place where you call home, your refuge, is actually where you are most vulnerable. The United Nations Declaration on the Elimination of Violence Against

²² <http://legislative.gov.in/sites/default/files/A2005-43.pdf>

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. Domestic violence is the leading cause of injuries experienced by women. Domestic battery causes more injuries to women than car accidents rape and mugging together (Rodriguez 1992). 22 to 35 % of emergency hospital visits are consequent to domestic violence (Wetzal et al, 1983). The report focuses on the major forms of domestic violence against women prevalent in our society. The major forms of domestic violence against women that have been studied in this report using data for various cases of crimes are:



The detailed explanation for various forms of violence against women prevalent in India and their statistical summary are as follows:

1. Kidnapping & Abduction

Kidnapping can be said as carrying away of a human being against his/her consent, or the consent of some person legally authorized to accord consent on behalf of such person. Abduction, it may be said, by itself is no offence. However, when it is done with the intent to

commit an offence, e.g. to rob or to murder or to confine or to compel marriage, it becomes an offence punishable under section 363.

Under Section 359 to 369 of the code, kidnapping and abduction is punishable with varying degree of severity according to nature and gravity of the offence. The underlying object of enacting these provisions is to secure the personal liberty of citizens, to give legal protection to children of tender age from being abducted or seduced for improper purposes and to preserve the rights of parents and guardians over their wards for custody or upbringing.

A total of 64,519 cases have been reported in 2016 as per NCRB Report, 'Crime Statistics-2016'. Uttar Pradesh reported highest number of cases (12,994 cases) of Kidnapping & Abduction of Women followed by Maharashtra(6170 cases) followed by Bihar(5496 cases). Delhi reported a highest crime rate of 40.74 (3841 cases per lakh female population) followed by Assam with crime rate of 33.8 (5339 cases per lakh female population). Lakshwadeep reported zero cases of Kidnapping & Abduction having zero crime rate followed by Mizoram (3 cases).

2. Female Trafficking

Whoever, for the purpose of exploitation, recruits, transports, harbours, transfers or receives any Women by— using threats, or using force or any other form of coercion, by abduction, by practicing fraud, by deception, by abuse of power, by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, commits the offence of trafficking. It is a criminal offence under Section 370, IPC.

A total of 1,183 cases have been reported under Female trafficking (as per NCRB Report). Jharkhand reported highest cases (137 cases) of female trafficking with crime rate of 0.9 followed by West Bengal(120 cases). Goa reported highest crime rate of 3.8 followed by Daman & Diu with crime rate of 3.64. A total of 7 States and 4 UTs reported crime rate of 0 with no cases reported for female trafficking for the year 2016.

3. Assault on Women with intent to outrage her modesty

Section 354 of the Indian Penal Code provides that: “Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”. The various forms of assault on women that have been included under this are Stalking, Voyeurism, Sexual harassment, Assault on Women and Assault/use of criminal force with intent to disrobe identity of women.

A total of 84,746 cases have been reported under assault on women in 2016(as per NCRB report).Maharashtra reported the highest cases (11,396 cases) in 2016 followed by Uttar Pradesh(11,335 cases) followed by Madhya Pradesh(8717 cases). Delhi reported a highest crime rate of 43.6 (4165 cases per lakh female population) followed by Orissa with crime rate of 39.1(8252 cases per lakh female population). Lakshwadeep and D&N Haveli have reported lowest number of cases (1 case) of assault on women with intent to outrage to her modesty in 2016

4. Attempt to commit Rape

Attempt to commit rape is a criminal offence committed under Section 376/511, Indian Penal Code. A total of 5,729 cases have been reported under attempt to commit rape in 2016 (as per NCRB Report).Uttar Pradesh reported highest number of cases (1958 cases) in 2016 followed by West Bengal (1646 cases).West Bengal reported highest crime rate of 3.60 (1646 cases per lakh female population).

5. Acid Attacks and attempts to acid attack

Section 326A of IPC follows that whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine. The Section 326 B in the Indian Penal Code lays down the punishment for attempted acid throwing. The minimum punishment is 5 years' imprisonment. It can extend up to 7 years' imprisonment with fine. A separate law to punish offenders in such cases was passed along with amendment of law on sexual offences.

A total of 206 cases have been reported under acid attacks and attempts to acid attack in 2016(as per NCRB report). West Bengal reported highest cases (54 cases) followed by Uttar Pradesh (51 cases) followed by Delhi (19 cases).Crime rate is observed to be approximately zero all over India.

6. Insult to the modesty of Women

Under Section 509, IPC, Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

A total of 6,365 cases have been reported under insult to modesty of women in 2016 (as per NCRB Report). Andhra Pradesh reported highest cases (1831 cases) of this crime followed by Telangana (1003 cases) followed by Maharashtra (924 cases). The crime rate was reported highest in Delhi (9.61) followed by Andhra Pradesh where crime rate was reported to be 7.16.

7. Indecent Representation of Women Prohibition Act

The Indecent Representation of Women (Prohibition) Act, 1986 is an Act of the Parliament of India which was enacted to prohibit indecent representation of women through advertisement or in publications, writings, paintings, figures or in any other manner. 38 cases of Indecent Representation of Women have been reported in India (as per NCRB Report) in 2016. Uttar Pradesh reported highest cases (18 cases) under this crime. The crime rate reported in 2016 under this act is approximately zero all over India.

8. Abetment of Suicide of Women

Section 309 follows that whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both.

A total of 4,446 cases have been reported under abetment of suicide of women in 2016 (as per NCRB Report). Maharashtra reported highest cases (756 cases) of Abetment of suicide of women followed by Madhya Pradesh (565 cases). Telangana reported highest crime rate of 3.050 (560 cases per lakh female population).

9. The Immoral Traffic Prevention Act

The Immoral Traffic (Prevention) Act, 1956 is an Act which provides in pursuance of the International Convention, 1950 for the prevention of immoral traffic. The Act intends to combat trafficking and sexual exploitation for commercial purposes. A total of 2,214 cases have been reported under The Immoral Traffic Prevention Act, 1956 in 2016 (as per NCRB report). Tamil Nadu reported highest cases (432 cases) under this offence followed by Karnataka (230 cases).

Daman & Diu reported highest crime rate of 3.6 (4 cases per lakh female population).

10. Rape

Rape is the fourth most common crime against women in India. According to the National Crime Records Bureau (NCRB) 2013 annual report, 24,923 rape cases were reported across India in 2012. Out of these, 24,470 were committed by someone known to the victim (98% of the cases). Rape of female is criminal offence under Section 375, 376, 376A, 376B, 376C and 376D of the Indian Penal Code .

Table 1 (The following table gives a comparison of each state / UT in terms of their index number and ranks)

SN	States/UT	index number	rank
1	Andhra pradesh	1088.44	26
2	Arunachal Pradesh	1338.74	16
3	Assam	1093.25	25
4	Bihar	1356.37	13
5	Chattisgarh	1362.39	10
6	Goa	1238.97	20
7	Gujarat	1461.81	5
8	Haryana	1131.99	23
9	Himachal Pradesh	1360.55	12
10	Jammu & Kashmir	1404.48	8
11	Jharkhand	1326.02	17
12	Karnataka	1288.78	18
13	Kerala	1203.36	22
14	Madhya Pradesh	1240.15	19
15	Maharashtra	1346.65	15
16	Manipur	1539.88	2
17	Meghalaya	1473.34	4
18	Mizoram	1502.21	3
19	Nagaland	1561.94	1
20	Orissa	1076.38	27
21	Punjab	1354.88	14
22	Rajasthan	1216.49	21
23	Sikkim	1391.25	9
24	Tamil Nadu	1440.2	7
25	Telangana	1050.38	28
26	Tripura	1362.02	11
27	Uttar Pradesh	994.7	29
28	Uttarakhand	1447.61	6
29	West Bengal	1127.94	24
Union Territories:			
30	Andaman& Nicobar	1390.1	3
31	Chandigarh	1104.42	6
32	D&N Haveli	1461.86	1
33	Daman & Diu	1197.28	5
34	Delhi	500.2	7
35	Lakshwadeep	1411.17	2
36	Puducherry	1269.94	4

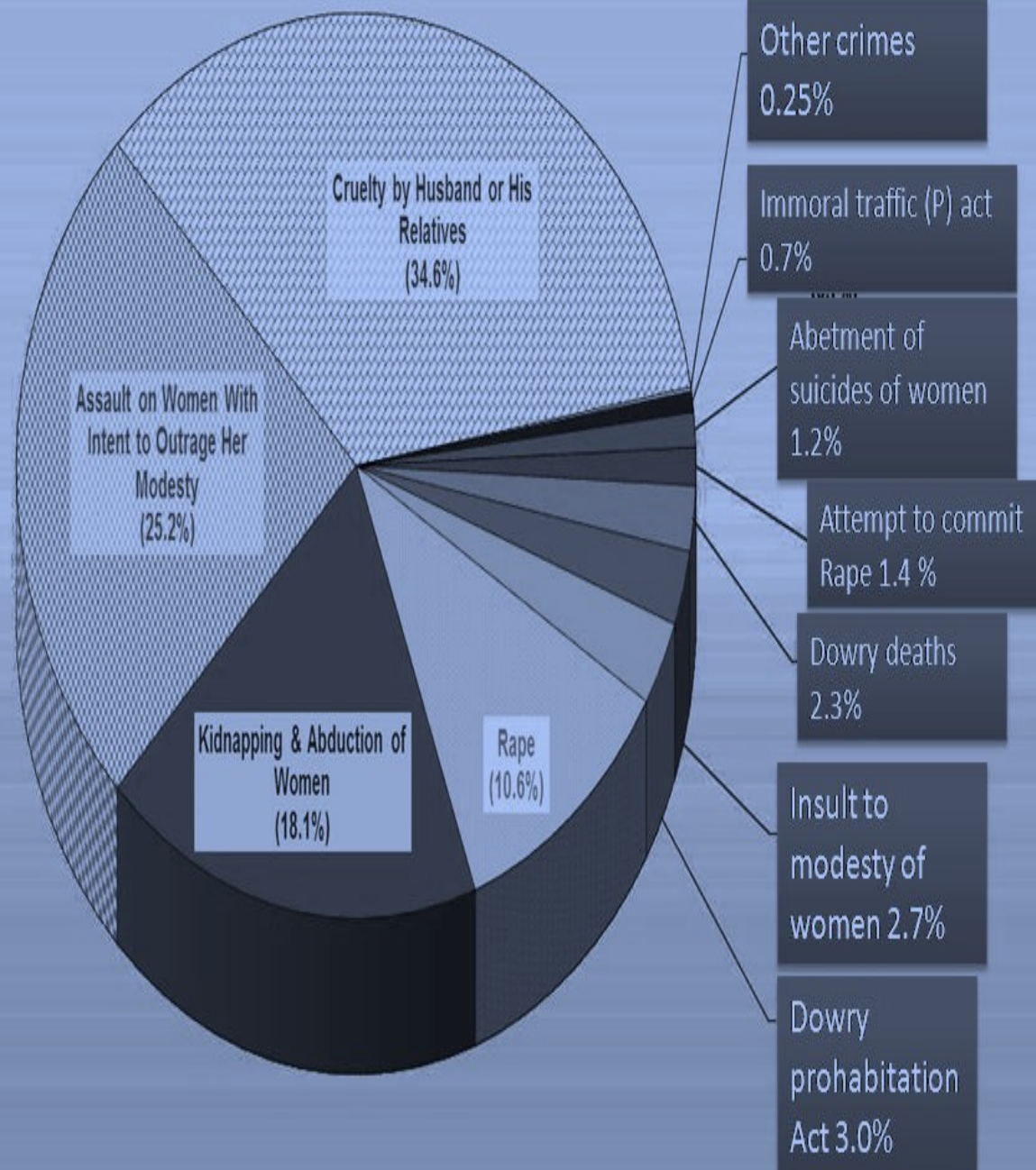
A total of 38,947 cases of rape have been reported in India in 2016 as per the report by NCRB. Madhya Pradesh reported highest rape cases (4882 cases) in 2016 followed by Uttar Pradesh (4816 cases) followed by Maharashtra (4189 cases). Sikkim reported highest crime rate (30.66) followed by National Capital, Delhi (22.57). Lakshwadeep & Puducherry reported least number of rape cases in 2016 with low crime rates. The remaining forms of violence that are being prevalent come under the category of domestic violence and have been already explained and summarized.

Table 2
Crime Head-wise Cases Registered under Crime against Women during 2011 - 2015 and Percentage Variation in 2015 over 2014

	Crime head	Years					Percentage variation in 2015 over 2014
		2011	2012	2013	2014	2015	
1	Rape#	24,206	24,923	33,707	36,735	34,651	-5.7
2	Attempt to Commit Rape*	-	-	-	4,232	4,434	4.8
3	Kidnapping & Abduction of Women	35,565	38,262	51,881	57,311	59,277	3.4
4	Dowry Deaths	8,618	8,233	8,083	8,455	7,634	-9.7
5	Assault on Women with Intent to Outrage her/their Modesty	42,968	45,351	70,739	82,235	82,422	0.2
6	Insult to the Modesty of Women	8,570	9,173	12,589	9,735	8,685	-10.8
7	Cruelty by Husband or His Relatives	99,135	1,06,527	1,18,866	1,22,877	1,13,403	-7.7
8	Importation of Girl from Foreign Country	80	59	31	13	6	-53.8
9	Abetment of Suicide of Women	-	-	-	3,734	4,060	8.7
A.	Total IPC Crime against Women	2,19,142	2,32,528	2,95,896	3,25,327	3,14,575	-3.3
10	Commission of Sati Prevention Act	0	0	0	0	0	0
11	Indecent Representation of Women (P) Act	453	141	362	47	40	-14.9
12	The Dowry Prohibition Act	6,619	9,038	10,709	10,050	9,894	-1.5
13	Protection of Women from Domestic Violence Act	-	-	-	426	461	8.2
14	Immoral Traffic (Prevention) Act	2,436	2,563	2,579	2,070#	2,424	17.1
B.	Total SLL Crime against Women	9,508	11,742	13,650	12,593	12,819	1.8
Total(A+B)		2,28,650	2,44,270	3,09,546	3,37,922	3,27,394	-3.1

Crime Head-wise Percentage Distribution under Crime Against Women during 2015

Figure 1.1



2.1.1 SOME LAND MARK CASE LAWS ON DOMESTIC VIOLENCE

2.1.1. Dowry Death — it is worst form of the domestic violence wherein many married women have been killed at their matrimonial home by her husband and relatives out of greed for dowry. It is considered to be the gravest social evil of today's immoral society. To deal with the offence of dowry death Section 304-B is included in the Indian Penal Code 1860 by the criminal Law (Amendment) Act. The said section defines the dowry death as follows:

A dowry death is the death of a woman because of burns, bodily injury of any reasons that are not normal and such death must take place within seven years from the date of marriage.

Thus, there are three essentials to fulfill the requirement of Section 304-B I.P.C.

the husband or relative of the husband should have treated the married woman with cruelty;

such cruelty should have been for or in connection with, demands for dowry; and cruelty should have been committed soon before her death.

In the view of Section 113-B of the Evidence Act reads with Section 304-B of Indian Penal Code the prosecution will have to prove that:

the death was caused by burns, bodily injury or death occurred under unnatural circumstances and in this regard the post mortem report is a creditable evidence;

The death took place within seven years of marriage. In this connection photographs of the wedding at marriage ceremony etc. are relevant proofs

The cruelty or harassment was caused on account of demand for dowry. To prove this, the witness of neighbours or letters written by the victim to her parents or someone telling that her-in-laws are demanding dowry all these

can be considered as evidences.

It would be pertinent to mention that the charge of dowry is mostly combined with charges under Section 458-A of the Indian Penal Code which deals with the term ‘dowry’ as defined in Section 2 of Dowry Prohibition Act, 1961 which reads as under :

“Dowry means any property or valuable security given or agreed to be given either directly or indirectly:

by one party to the other in the event of marriage; or

by the parents of either party to a marriage or by any other persons, to either party to the marriage or to any other person and; this exchange of property must be for considerations of marriage. Although, gifts that are given to bride during her marriage are not dowry. Such gifts are her own personal property and she has absolute right over them.

2.1.2. Abetment to Commit Suicide — there are numerous instances when women are driven to commit suicide due to domestic violence. In such cases perpetrator is responsible for the death. What amounts to abetment of suicide? The term abetment has been defined in Section 107 of the Indian Penal Code. According to Section 107 IPC “abetment” can take place in any of the three forms viz. (i) by instigation, and/or, (ii) by conspiracy and/or, (iii) by intentional aiding.

However, Section 306 of the Indian Penal Code deals with the abetment of suicide. It provides that “if any person commits suicide, whoever, abets the commission of such suicide, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine. As the word ‘abetment’ in respect of suicide is used under Section 306 of the Indian Penal Code, it has to be read in the sense in which the word ‘abetment’ is defined and used under Section 107 and 108 of the Indian Penal Code. In other words, in order to convict a person for an offence under Section of the Indian Penal Code, the prosecution must show that there was abetment as understood in the aforesaid section for the commission of the said offence.

Scolding, bickering or kicking by the husband whether amounts to abetment. This question was considered in *Nand Kishore Vishwanath Newara v. State of Maharashtra* ²³

²³ (1993) II D. M. C. 195

wherein it was held that even accepting the words in the dying-declaration that there was scolding, bickering and kicking by the husband, these incidents in their entirety would not lead to an abetment so as to hold the appellant secured guilty in the offence punishable under Section 306 the Indian Penal Code.

Another Question whether outraging of the modesty amounts to abetment to commit suicide. The Madhya Pradesh High Court in *Deepak v. State of M.P.*²⁴ observed that as the statement of the deceased, disclosed from her three dying declarations, the two accused persons at late hour of the night entered her room and tried to take advantage of the situation to commit sexual offence against her. This act on the part of the accused might or might not have driven the woman to commit suicide. In the facts as have been brought on record, the two accused persons could not have foreseen that such an act on their part, was a serious offence, which would necessarily drive the woman to commit suicide. It is admitted by the deceased in her own dying declaration that not soon after the incident of outraging her modesty, but after about an hour she put herself afire. Therefore, this is not a case where it can be said that the two persons were abettors to the act of Commission of suicide by the deceased. Hence, outraging of modesty does not amount to abetment of suicide.

Suicide is a self-murder: Undoubtedly, suicide is as old as human history itself and has still been one of the most intriguing and complicated problems that has been perplexing the human mind for ages. It has attracted the attention and discussed by the social reformers, psychologists, jurists, psychiatrists, doctors, legislatures and even courts all over the world. Suicide no doubt is a self murder and by its very nature is an act of

killing or self destruction and an act of terminating one's own life by one's own act and without aid or assistance of another human agency. But, if suicide is completed and successful by itself it is not an offence under the criminal law because the law can not reach him to convict. While an attempt to commit suicide is punishable under Section 309 of Indian Penal Code Similarly, a person who aids, abets or counsels the suicide, is punishable under Section 306 Indian Penal Code.²⁵

In respect of the death of a married woman, where the question is whether the death was suicide it may be necessary to determine, whether the victim had been subjected to

²⁴ (1993) II D. M. C. 195. 1994 Cr. L. J. 767 (M.P.).

²⁵ State of Maharashtra v. Madhusudan and other, (1993) II DMC 10 (Bom.) (DB)

harassment by her in-laws which may be a continuous build up right from the date of marriage.²⁶

(b) Reasons for Suicide: There are member of reasons on account of which the persons commit suicide. The causes to take such recourse are mental, physical and social. Some circumstances are illustrated as follows but they can not be said to be exhaustive:

The person suffering from mental illness requiring psychiatric treatment;

Depressive illness with a feeling of worthlessness, accompanied by mental disorder;

Due to poverty;

Failure in love, examination and business;

Serious physical illness either incurable or unbearable, with a sense that illness will never be cruel and;

Extreme physical or mental torture or cruelty to the married woman by the husband or his relatives.²⁷

Modes of Suicide: The modes and methods to commit suicide differ from place to place and person to person and many times governed by the means available. However, some modes and methods could be illustrated particularly with reference to the women as under:

by burning;

by drowning;

by poisoning;

by hanging;

²⁶ Suresh Raghunath Kochoane v. State of Maharashtra, 1993 (2) Crimes 545.

²⁷ State of Maharashtra Vs Madhusudan and others (1993) II DMC 10 (BOM) (DB)

by jumping and;

by shooting,

2.1.3. Cruelty: In India certain forms of domestic violence have been made offence under the Indian Penal Code, namely Section 498-A, which deals with cruelty by a husband or his relatives to a woman. 'Cruelty' in the form of domestic violence may be physical or mental, criminal or civil. However, four types of cruelty are considered as an offence as provided under Section 498-A of Indian Penal Code.

These are:

intentional conduct which is likely to drive the women to commit suicide;

intentional conduct which is capable to cause injury to the limb, life or health of the women;

forcing, women with the view to get some property and;

harassment because the woman at her relatives did not give some property.

A single act of physical violence or a series of small acts of violence amounts to cruelty. It may be physical or mental; however, constant nagging, false accusation of unchastely etc. are treated as a mental cruelty. What is harassment? The term has not been defined in the statute but the courts in

India have held as harassment the following:

Forcing women on perverse sexual intercourse;

Denial of food;

Forceful confinement of woman within the house;

Repeated physical assaults;

Repeatedly abusing children in presence of their mother causing mental torture;

Denying women access to children with the view to cause mental agony;

Taunting amounts to harassment and;

Threatening divorce.

The term 'cruelty' as defined in explanation appended to Section 498-A Indian Penal Code which reads as under:

“Explanation — For the purpose of this Section ‘cruelty’ means:

any willful conduct which is of such a nature as is likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the women, or

harassment of the women where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

It is to be noted that Section 498-A has been inserted in the Indian Penal Code by the Criminal Law (Amendment) Act, 1983 with effect from 25th December, 1983. The purpose of Section 498-A of Indian Penal Code is to ventilate the grievances about atrocity of newly married brides due to dowry or other such similar demands from their husbands or in-laws. Women social workers had taken up the cause in a movement in the country and due to effective persuasion by social compulsions Section 498 A of Indian Penal Code and Section 113-A of the Evidence Act have been introduced with effect from 25th December, 1983. The aforesaid provisions were obviously intended to cure the existing evil in the society. The evil at many times resulted in atrocities on married women and various acts of cruelty were being proceed. No doubt, there are some provisions available in the Penal Code, such as Section 306

of Indian Penal Code which deals with abetment of suicide but the instances were such which could not come to light due to their occurrence in the house of their in laws. Naturally the victims of such domestic violence being women could not take recourse to public authorities to ventilate their grievances. After all, the social conditions, family traditions etc. prevented the brides to take any recourse to public authorities. They could not even convey the atrocities to their parents.

It was, therefore, to curb this form of domestic violence which resulted in atrocities on women that the aforesaid provisions were introduced. Though, the main provision of Section 498-A of Indian Penal Code has made the offence of cruelty to women as the subject, the legislature has to take care to define cruelty for the purpose of Section 498-A of Indian Penal Code has made the offence of cruelty to women as the subject. Of course, it was not every type of harassment or cruelty that would attract Section 498-A of Indian Penal Code, it must be established that harassment or cruelty was with a view to forcing wife to commit suicide or to fulfill illegal demands of husband and in-laws²⁸

The constitutional validity of Section 498-A of Indian Penal Code was challenged in *Inder Raj Malik v. Mrs. Sumita Malik*²⁹ and the Delhi High Court observed that there is no question of giving any arbitrary power to the police as well as to courts. The word ‘cruelty’ was well defined and its importance was well known. The importance of word ‘harassment’ was also very well known and there cannot be any arbitrary exercise of power in interpreting the word. In fact, many words occur in many provisions of law and they are to be interpreted by the courts. It is true that wide discretion has been given to the court in the matter of interpretation of the words occurring in the laws and in the matter of awarding punishment. If giving this discretion was thought to be conferring arbitrary powers on the courts, most of the provisions of the law will have to be struck-down as *ultra vires*. While discretion was given to punish a person for the same offence with imprisonments up to ten years, it cannot be said that element of arbitrariness had scrapped in conflict. It was well established that it does not come in conflict with Article 14 of the Constitution. None of the articles of the Constitution have been contravened by any of the provisions of Section 498-A of Indian Penal Code.³⁰

²⁸ Sarala Prabhakaran Waghmare v. State of Maharashtra, I 1991) DMC 310 (Bom,)

²⁹ 1986 (2) crimes 435 (Del.)

³⁰ Indrawati and others v. Union of India, 1 (1991) DMC 117 (All.)

2.1.4 Hurt and Grievous Hurt: Simple injury or serious injury is one of the forms of domestic violence. It is physical violence when a woman is subjected to direct body assault. If any one causes to a woman bodily injury or disease or infirmity that person will be considered to have caused hurt to that woman. The expression ‘hurt’ connotes simple injury, however ‘grievous hurt’ relates to serious injuries. The punishments for these two offences are different. Criminal law recognizes these two types of physical hurt and punishments for these two offences are different. The offence as to hurt has dealt by the relevant provisions of the Indian Penal Code i.e. Sections 319, 321, 323 and 324, although the offence to ‘grievous hurt’ has been dealt by the sections 320, 322, 325 and 326 of the Indian Penal Code. If the act of hurt or grievous hurt was done with the intention to hurt or to cause grievous hurt is punishable under the aforesaid provisions of the Indian Penal Code.

2.1.5. Wrongful Restraint and Wrongful Confinement – Wherein a woman is stopped from going out of the house or locked up on the person who commits such act is liable to be punished under Sections 339 and 340 of the Indian Penal Code. The time period for which women were wrongfully confined is irrelevant. Women have the right to move and proceed in any direction that they want to. When a woman is obstructed or prevented from proceeding, beyond certain circumscribed limits it amounts to violence against women.

2.1.6. Sexual Intercourse During Judicial Separation – In India the Law does not recognize “marital rape” as an offence. Thus, a man is not liable to be punished for raping his wife unless she is below the age of fifteen years. Although, compulsive sexual intercourse with a wife who is living separately under an order of judicial separation is an offence under Section 376-A of the Indian Penal Code, 1860 and such sexual intercourse can be treated as domestic violence against women.

2.1.7. Bigamy — keeping of second woman or mistress during the subsistence of first wife, the person who commits such act is guilty of domestic violence against first wife. In other words, if the husband of a married woman married someone else while the first wife is still married to him or if husband was already married when a woman got married, husband may be guilty of bigamy. By its nature bigamy is considered to be one of the kinds of domestic

violence against woman. However, if the person belongs to Muslim community he is permitted to marry more than once, thus, to keep more than one wife at the same time. It means that for the act of bigamy as a domestic violence one will have to look at the personal law that applies to the person to find out whether the second marriage is valid or not. What is bigamy? It has been statutorily defined under Sections 494 and 495 of the Indian Penal Code, which provides that the husband is guilty of bigamy if:

He has a wife who is alive ;

He has married again;

His second marriage is 'void' on the ground that he is already married and;

First marriage has not been pronounced 'void' by the Court having jurisdiction.

The aforesaid provisions of the Indian penal Code further state that person/husband shall not be liable if the whereabouts of the first wife have not been known for a continuous period of seven years or more.

It is to noted that be a person is a Hindu, Sikh, Jain, Buddhist Christian³¹ or Parsi,³² will be subjected, to penal action if he marries a second time. However, if a husband of a woman is a Muslim, he is permitted to marry more than once as he is governed by the Muslim Personal Law. Conversion to Islam only for the purpose to marry a second time is an offence. The Apex Court in *Sarla Mudgal v. Union of India*³³ has held that if a husband has converted to Islam only so that he can get married again, he will be guilty of bigamy in his second marriage itself. It means that if a man is already married under Hindu Personal

Law and subsequently he converted to Islam for the purpose of marrying again, he will be committing domestic violence against his first wife, which amounts to be an offence is punishable under Section 495 of Indian Penal Code.

³¹ By virtue of the Indian Christians Marriage Act, 1872.

³² By virtue of Section 5 of the Parsi marriage and Divorce Act, 1936

³³ (1995) 3 SCC 635.

2.1.8 Adultery — When a married man is having a sexual relationship with another married woman, his act amounts to domestic violence against his legally married wife. In legal term it is called adultery which is an offence.

Under section 497 of the Indian Penal Code 1860 a woman's husband is guilty of adultery if:

He has sexual relationship with a woman who is married to another person;

He knows that she is married; or

He has reason to believe that she is married and;

He does not have the consent of husband of that woman to have sexual relationship with her.

2.2. Safeguards in Indian Laws. A bare reading of Section 497 of Indian Penal Code shows that the law relating to adultery is not fair because it does not give right to woman to prosecute her husband who commits adultery. It is the husband of the woman with whom delinquent husband had sexual relationship, can who prosecute him. In other words in case of adultery the only person who can start a case against delinquent husband, is the husband of the woman with whom delinquent husband has had sexual intercourse/relationship. Thus a woman has no right to prosecute her husband if he is committing extra marital offences. Such complaint however, has to be entertained initially by the pre-litigation cell.

Women's commission is empowered to write letters to the police seeking cooperation in respect of victim of domestic violence and to render protection and also help in getting back the belongings of the victim. Women's commission can use its high office for conciliation and perform function as a conciliator. It is to be noted that the Women's commission is not a substitute for a legal option, having no power of enforcement.

2.2.1. Victim could take the help of the Police: Apart from the National Commission for women and State Women's Commission, a victim of domestic violence could also take the help of the police.

Wherein the victim of violence at home opted to seek help of the police, she herself or some one else can register a FIR and the police on duty is bound to register the same. In case police declined to register the FIR then in such circumstance victim can make complaint against such police officer to the Superintendent of Police or to the Additional Commissioner of Police where there is Commissioner System. It is pertinent to mention here that the victim of domestic violence has an option whether to initiate action or to bestow another opportunity to offender spouse and his relative to amend themselves, thus victim could always mention in her FIR that she is 'recording the incident and does not wish to initiate criminal action.

2.2.2. National Women's Commission: Through law viz. the National Commission for Women Act, 1990, an autonomous body has been set up by the Central Government to be called the National Commission for Women.

This commission functions at national level, however, most of the States have also constituted commission to be known as the State Women's Commission. The National Women's commission and the State Women's Commissions perform similar functions. These Commissions render assistance to women who are in distress. In keeping with the view to deal with the complaints most of the State Commissions have constituted 'complaint cells'.

Functions of Women's Commission – Since there is no prescribed format for making application and seeking assistance of the Commission, a simple application can be made. If the Commission is of the opinion that the case in hand is genuine, the Commission can issue notice and call the opposite party. Such complaint to police can be lodged by the relative of the victim or through her next friend recovery of 'stridhan' of such victim can be made with the help of police.

2.2.3. Women's Police Station: In order to control and also to provide speedy and effective protection to victims of violence at home some of the States in India have set up special women's Police stations. These police Stations are managed by women Police officials and professional counselors are attached to these special police stations with the object to counseling. Usually, these Counsellors try to harmonize the relation between the spouses and suggest amicable settlement before initiating criminal proceedings. However, idea of Counselling gets failed if the husband and his family members happen to adopt stubborn attitude and reluctant to settle the controversy friendly. Women's Police Station is helpful for recovery of victim's 'stridhan' and belongings etc. Though, these women's Police have vested jurisdiction to deal with the crime against women including domestic violence against women but rapid increase of domestic, violence against women, in today's so called society if seems to be very difficult to achieve the objectives.

2.3 Domestic Violence in View of International Prospective

DV is recognized in international law as a violation of human rights. Although early international treaties only provided protection against domestic violence implicitly, in the 1990's domestic violence began to receive more explicit attention with the passage of the General Comment No. 19 by the Committee on the Elimination of Discrimination Against Women (1992) and the Declaration of Elimination of Violence Against Women (1993). The past two decades have also seen numerous resolutions from the UN General Assembly on violence against women, including one that specifically addressed domestic violence. This section will review the international treaties and resolutions impacting domestic violence, with a focus on three primary ways that domestic violence violates human rights: as a violation of basic freedoms such as the right to life and security of person, as a violation of the right to equality, and as a violation of the prohibition against torture.

The United Nations defined the term “violence against women” in a 1993 Declaration as “ any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”³⁴ The Declaration further notes that violence against women as encompassing, but not limited to, three areas: violence occurring in the family, within the general community and violence condoned or perpetrated by the state³⁵ Having included domestic violence as a form of violence against women, the United Nations further explained that: The term ‘domestic violence’ is used to describe actions and omissions that occur in varying relationships. The term is used narrowly to cover incidents of physical attack, when it may take the form of physical and sexual violations. The result of such physical violence can range from bruising to killing; what may often start out as apparently minor attacks can escalate both in intensity and frequency. ‘Domestic Violence’ also includes psychological or mental violence, which can consist of repeated verbal abuse, harassment, confinement and deprivation of physical, financial and personal resources.³⁶

³⁴ UN Women(2018).UN Trust Fund to end Violence Against Women. New York: UN Women Headquarters. <http://www.unwomen.org/en/digital-library/publications/2018/6/un-trust-fund-to-end-violence-against-women-annual-report-2017>.

³⁵ UN Women(2018). TOWARDS AN END TO SEXUAL HARASSMENT: THE URGENCY AND NATURE OF CHANGE IN THE ERA OF #METOO. New York: UN Women Headquarters. <http://www.unwomen.org//media/headquarters/attachments/sections/library/publications/2018/towards-an-end-to-sexual-harassment-en.pdf>.

³⁶ United Nations Office at Vienna, Centre for social Development and Humanitarian Affairs,

One of the most progressive definitions of domestic violence appears in the South African Domestic Violence Act of 1998. The Act is a relatively recent and, arguably, liberal piece of domestic violence legislation and serves as a useful working instrument for the purposes of understanding the current definition of domestic violence. The Act defines domestic violence as: (a) physical abuse; (b) sexual abuse; (c) emotional, verbal and psychological abuse; (d) economic abuse; (e) intimidation; (f) harassment; (g) stalking; (h) damage to property; (i) entry into the complainants' residence without consent, where the parties do not share the same residence; or (j) any other controlling or abusive behaviour towards a complainant, where such conduct harms, or may cause imminent harm to, the safety, health or well-being of the complainant³⁷ DV as defined includes violence perpetrated against a women by her husband and other members of his family and manifested through as below

- Physical abuse such as slapping, beating, arm-twisting, stabbing, strangling, burning, choking, kicking, threats with an object or weapon, and murder. It also includes wife inheritance (the practice of passing a widow, and her property, to her dead husband's brother).
- Sexual abuse such as coerced sex through threats, intimidation or physical force, forcing unwanted sexual acts or forcing sex with others.
- Psychological abuse which includes behaviour that is intended to intimidate and persecute, and takes the form of threats of abandonment or abuse, confinement to the home, surveillance, threats to take away custody of the children, destruction of objects, isolation, verbal aggression and constant humiliation.
- Economic abuse includes acts such as the denial of funds, refusal to contribute financially, denial of food and basic needs and controlling access to health care, employment, etc.
- Acts of omission are also included as a form of domestic violence against women. It should be noted that although the categories above are listed separately, they are not mutually exclusive. Indeed they often go hand in hand.

The British government has adopted one of the more expansive descriptions of domestic violence, one that includes all of the foregoing elements: "Any incident of threatening behaviour,

Strategies for Confronting Domestic Violence: A Resource Manual 6 (1993).

³⁷ Domestic Violence Act No. 116 of 1998, 1998 SA CRIMINAL LAW 116 (BSRSA, LEXIS through June 2003 update).

violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality.” Beyond the basic definition, the government furnishes further description of domestic violence as “a pattern of abusive and controlling behaviour” by which the abuser attempts to gain power over the victim. The government contends that domestic violence crosses age, gender, racial, sexuality, wealth, and geographical lines. (Crime Reduction.gov.uk, *Domestic violence mini-site*, 2005) Interestingly, the definition offered by the government expands the description to include other “family members” in addition to “intimate partners.”

The U.S. Office on Violence against Women (VAW) defines domestic violence as a “pattern of abusive behaviour in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can take many forms, including physical abuse, sexual abuse, emotional, economic, or and/or psychological abuse. In order to improve the quality of data available, the Centres for Disease Control and Prevention undertook a project to standardize the definition of “intimate partner violence” according to which “intimate partner violence” is described as physical, sexual, or psychological harm by a current or former partner or spouse. This type of violence can occur among heterosexual or same-sex couples, and does not require sexual intimacy. “Intimate partners” include current spouses, current non-marital partners, dating partners, divorced or separated spouses, former non-marital partners, former boyfriends/girlfriends (heterosexual or same-sex). (Centre for Disease Control and Prevention 2011) Along with the above organizations, many eminent scholars have also defined domestic violence. Some of them are listed below: Gelles (1974) has defined family violence as “day-to-day pattern and recurrent use of physical violence like pushing, slapping, punching, knifing, shooting and throwing of objects by one member of the family on another” Gelles and Straus (1979) added “intention or perceived intention” but family violence for them remained physical in nature.

CHAPTER III

3.1 Effect of Domestic Violence on Women's Physical & Mental Health

The broad definition of mental health refers to the well-being of an individual on emotional, social and psychological levels. The state of someone's mental health has significant sway over the way they act, process emotions and make decisions. A person in good mental health can maintain healthy relationships, express a wide range of emotions and manage the difficulties of change.

The World Health Organization (WHO) defines mental health as the state of well-being where every individual realizes his or her own potential, manages the normal stresses of life, works productively and fruitfully, and can contribute to her or his community.

DV has many forms, including physical violence, sexual abuse, emotional abuse, intimidation, economic deprivation or threats of violence. It can include physical attacks, such as hitting, pushing, punching, as well as threatening with a weapon, psychological abuse, or forced sexual activity. Indirect physical violence may include destruction of objects, striking or throwing objects near the victim, or harm to pets.

In addition to physical violence, spousal abuse often includes mental or emotional abuse, including verbal threats of physical violence to the victim, the self, or others including children, ranging from explicit, detailed and impending to implicit and vague as to both content and time frame, and verbal violence, including threats, insults, put-downs, and attacks. Nonverbal threats may include gestures, facial expressions, and body postures.

Psychological abuse may also involve economic and/or social control, such as controlling victim's money and other economic resources, preventing victim from seeing friends and relatives, actively sabotaging victim's social relationships and isolating victim from social contacts. Spiritual abuse is another form of abuse that may occur. There are a number of dimensions including mode - physical, psychological, sexual and social. Its frequency is on/off, occasional, chronic; and severity – in terms of both psychological or physical harm and the need for treatment like transitory or permanent injury or mild, moderate, severe up to homicide. The pattern of abusive behaviours rather than isolated incidents of violence are what battered women

describe as the most painful and long-lasting torment. When abuse occurs repeatedly in the same relationship, the phenomenon is often referred to as "battering"(WHO)³⁸

3.1.1 Effect of Domestic Violence on Physical Health

Physical, mental and sexual violence that women experience from their partners, it is important to investigate its health consequences and the role of health care professionals. Heise *et al.* (1994), in assessing the health consequences of gender based violence, estimated that in industrialised countries rape and domestic violence take about five healthy years of life away from women aged 15-44. Physical injuries can include bruises, cuts, burns and scalds, concussion, broken bones, penetrative injuries from knives and other objects, as well as miscarriages, permanent injuries such as damage to joints, partial loss of hearing or vision and physical disfigurement from burns, bites or knife wounds. Women in strained relationships also frequently experience depression and somatic complaints such as migraine and non specific pains in the stomach and joints. Women living in violent relationships have significantly poorer health than women who do not live in such relationships. There are also long-term health problems-especially arthritis, hypertension and heart disease (AMA Council on Scientific Affairs, 1992).

Women who have experienced physical, psychological and sexual violence are at higher risk of unwanted pregnancy, high risk pregnancy, and adverse pregnancy outcomes and of contracting sexually transmitted diseases including HIV/AIDS Physical violence leads to injuries, fatal outcomes (less common) and functional disorders (most common) such as chronic pain syndrome, gastro-intestinal disorders etc. Domestic violence leads to stress and stress-related mental illnesses among women such as post-traumatic stress syndrome, depression and low self-esteem. These mental health problems have a higher risk for suicide and suicide attempts.

Health consequences of violence against women.³⁹

Non Fatal Outcomes

1. Injury (from laceration to fractures and internal organs injury)
2. Unwanted pregnancy
- 3 .Gynaecological problems
4. STDs including HIV/AIDS

³⁸ <https://hside.org/link-between-physical-and-mental-health/>

³⁹ "Violence against Women", WHO Consultation, 1996

5. Miscarriage
6. Pelvic inflammatory disease
7. Chronic pelvic pain
8. Headaches
9. Permanent disabilities
10. Asthama
11. Irritable bowel system
12. Self-injurious behavior's
13. Smoking, unprotected sex

Fatal Outcomes

1. Suicide
2. Homicide
3. Maternal mortality
4. HIV/AIDS

3.2 Effect of Domestic Violence on Mental Health

Sexual assault, molestation, rape, sexual harassment, forced sexual abuse by partner etc cause psychological disturbance among women. The trauma of sexual violence sparks off tension and anxiety at a dangerous level. Their mental health problems are manifested in anxiety, fear, avoidance, guilt, loss of efficiency, lack of coordination, depression, sexual dysfunction, substance abuse, reliving the traumatic incidents through memory, suicidal attempts, eating disorders, disturbed sleep patterns, fear of encountering such situations once again etc. (Patel 2004). It is found that “women who undergo extreme sexual violence experience a loss of self and self esteem, following the shock inflicted on them. When there is a continuous period of traumatic stress, it becomes chronic, lessening the individual’s ability to do any kind of constructive work.” (Nair and Nair, 2002)⁴⁰

A study conducted in different cities of India found that 40% of women who reported experiencing violence within their marriage 56% had indications of poor mental health. The study also found that women who reported experiencing severe harassment from in-laws have a strong chance of experiencing poor mental health and 74%of women from rural areas, 80% From

⁴⁰ <https://www.theguardian.com/society/2019/jun/07/domestic-abuse-victims-more-likely-to-suffer-mental-illness-study>

urban slums and 71% From urban non slums who experienced in-law harassment exhibited signs of poor mental health.

Effect of DV on mental health associated with

- Post traumatic stress disorder
- Depression
- Substance misuse
- Anxiety
- Suicidal ideation
- Fictional symptoms
- Exacerbation of psychosis symptoms ⁴¹

3.2.1 Post Traumatic Stress Disorder (PTSD) ^{42 43 44 45}

Severe psychological disturbance following a traumatic event characterised by involuntary re-experiencing of elements of the event, with symptoms of hyperarousal, avoidance, and emotional numbing. Symptoms arise within 6months of the traumatic event (delayed onset in -10% of cases) or are present for at least 1moth, with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

The mental health consequences of intimate partner abuse have been well documented, with PTSD and depression as the most commonly identified disorders (Campbell, Kub, Belknap, 1993 Golding, 1999). Rates of PTSD among battered women range from 31% to 84%, with a weighted mean prevalence estimate of 64% (Godling1999). These rates are considerably higher than PTSD rates found among general community samples of women, which range from 1% to 12%, and also exceed the PTSD rates found among community samples of women with histories of criminal victimization. Using a sub-sample of female participants completing the NVAWS

⁴¹ Sandra L Martin, Kathryn E Moracco, Julian Garro, Amy Ong Tsui, Lawrence L Kupper, Jennifer L Chase, Jacquelyn C Campbell, Domestic violence across generations: findings from northern India, *International Journal of Epidemiology*, Volume 31, Issue 3, June 2002, Pages 560–572,

⁴² Campbell JC, Kub J, Belknap RA, Templin T. Predictors of depression in battered women. *Violence Against Women*. 1997;3:271–293

⁴³ Golding JM. Intimate partner violence as a risk factor for mental disorders: A meta-analysis. *Journal of Family Violence*. 1999;14:99–132.

⁴⁴Basile KC, Arias I, Desai S, Thompson MP J *Trauma Stress*. 2004 Oct; 17(5):413-21.

⁴⁵David; Smyth, Roger; Burns, Jonathan; Darjee, Rajan; McIntosh, Andrew , *Oxford Handbook of Psychiatry*, 1st Edition 2005

telephone survey, found that physical, psychological, and stalking violence were associated with PTSD symptoms. Physical injury has been documented following intimate partner violence (IPV) in epidemiological surveys,⁴⁶ outpatient treatment-seeking samples emergency medical samples, and primary care and/or obstetrical samples. In addition to the implications of injury for women's physical health functioning, injury has also been associated with emotional sequelae of trauma, including PTSD and depression. Given these associations, infliction of physical injuries is also measured within the current study.

3.2.2 Depression

Depressive disorders are common, with a prevalence of 10% in primary care settings. Rank fourth as causes of disability worldwide, and it has been projected that they may rank second by the year 2020. The prevalence of depressive symptoms may be as high as 30% in the general population with women being twice as likely to be affected as men. A recent study examined the lives of almost 300 world famous men and found that over 40% had experienced some type of depression during their lives. Highest rates (72%) were found in writers, but the incidence was also high in artists (42%), politicians (41%), intellectuals (36%), composers (35%), and scientists (33%).

Core symptoms

- Depressed mood present most of the day, nearly every day, with little variation, and often lack of responsiveness to changes in circumstances. There may be diurnal variation in mood with mood worse in the morning and improving as the day goes on.
- Anhedonia Markedly diminished interest or pleasure in all, or almost all, activities most of the day, nearly every day (as indicated by either subjective account or observation made by others).
- Weight change Loss of weight when not dieting or weight gain (e.g. a change of more than 5% of body weight in a month), associated with decreased or increased appetite.
- Disturbed sleep insomnia (with early morning wakening 2-3 hrs sooner than usual) or hypersomnia.
- Psychomotor agitation or retardation observable by others, not just subjective feelings of restlessness or being slowed down.

⁴⁶ Stets JE, Straus MA. Gender differences in reporting marital violence and its medical and psychological consequences. In: Straus MA, Gelles RJ, editors. *Physical violence in American families: Risk factors and adaptation to violence in 8,145 families*. New Brunswick, NJ: Transaction Books; 1990

- Fatigue or loss of energy.
- Reduced libido.
- Feelings of worthlessness or excessive or inappropriate guilt (which may be delusional) not just self-reproach or guilt about being ill.
- Diminished ability to think or concentrate or indecisiveness.
- Recurrent thoughts of death or suicide which may or may not have been acted upon.

In worst case severe psychotic disorders may present as follows

Psychotic symptoms/features

- Delusions e.g. poverty; personal inadequacy; guilt over presumed misdeeds; responsibility for world events: accidents, natural disasters, war; deserving of punishment; other nihilistic delusions.
- Hallucinations e.g. auditory: defamatory or accusatory voices, cries for help or screaming; olfactory: bad smells such as rotting food, faeces, decomposing flesh; visual: tormentors, demons, the Devil, dead bodies, scenes of death or torture.⁴⁷

Prevalence rate of major depression among battered women is estimated to be 48% (Golding 1999), a rate also considerably higher than those obtained in epidemiological samples of women. Notably, depression among battered women has been found to be chronic, with symptoms continuing to exist over time for some battered women, even in the absence of recent revictimization (Campbell et al, 1997). Clinically significant levels of depression were reported among a sample of battered women (43%) in the community following receipt of extensive services from emergency or transitional living shelters (Ham-Rowbottom, Gordon, Jarvis, & Novaco, 2005). Symptoms persisted even after a considerable length of time had passed following receipt of services (i.e., average of 18 months for the emergency shelter sample and 38 months for the transitional housing sample) and in the absence of repeat violence. Cumulative adversity in the form of exposure to multiple stressors was associated with a downward spiral of

⁴⁷ David; Smyth, Roger; Burns, Jonathan; Darjee, Rajan; McIntosh, Andrew Oxford Handbook of Psychiatry, 1st Edition 2005 page 242

depressive symptoms among a sample of help-seeking battered women followed up for 2 years after separation (Anderson, Saunders, Mieko, Bybee, & Sullivan, 2003).^{48 49}

Mechanic, M. B et al (2010) studied on battered women are exposed to multiple forms of intimate partner abuse. This study explained the independent contributions of physical violence, sexual coercion, psychological abuse, and stalking on symptoms of posttraumatic stress disorder (PTSD) and depression among a sample of 413 severely battered, help-seeking women. The researcher tested the unique effects of psychological abuse and stalking on mental health outcomes, after controlling for physical violence, injuries, and sexual coercion. Mean scores for the sample fall into the moderate to severe range for PTSD and within the moderate category for depression scores. Hierarchical regressions test the unique effects of stalking and psychological abuse, after controlling for physical violence, injuries, and sexual coercion. Psychological abuse and stalking contribute uniquely to the prediction of PTSD and depression symptoms, even after controlling for the effects of physical violence, injuries, and sexual coercion. Results highlight the importance of examining multiple dimensions of intimate partner abuse.

Table 3 Symptom Severity Scores⁵⁰.

Scale	% of Sample Meeting Severity Criterion	<i>M</i>	<i>SD</i>	Min.	Max.
Posttraumatic Diagnostic Scale		28.9	10.9	1	50
Mild	13.4%				
Moderate	15.1%				
Moderate to severe	31.8%				
Severe	39.6%				
Beck Depression Inventory–Second Edition		26.1	11.6	0	56
Minimal	5.9%				
Mild	17.9%				
Moderate	45.0%				
Severe	31.0%				

{source Mechanic, M. B., Weaver, T. L., & Resick, P. A. (2008)}

⁴⁸ Ham-Rowbottom KA, Gordon EE, Jarvis KL, Novaco RW. Life constraints and psychological well-being of domestic violence shelter graduates: The “cream of the crop.” *Journal of Family Violence*. 2005;20:109–121

⁴⁹ Anderson DK, Saunders DG, Mieko Y, Bybee DI, Sullivan CM. Long-term trends in depression among women separated from abusive partners. *Violence Against Women*. 2003;9:807–838.

⁵⁰ Mechanic, M. B., Weaver, T. L., & Resick, P. A. (2008). Mental health consequences of intimate partner abuse: a multidimensional assessment of four different forms of abuse. *Violence against women*, 14(6), 634–654.

Christine A. Helfrich et al (2008) published a study investigates the presence of mental health symptoms and disorders reported by 74 women in a domestic violence shelter and the impact of those symptoms on function in work, school, and social encounters. Findings are compared to estimates of U.S. women generally, based on a national sample of over 65,000 women drawn from the 1995 National Health Interview Survey. In her study she reported that psychological symptoms were more prevalent among the study participants than the general U.S. population. Most notable was the greater occurrence of sadness or anxiety (77.0%) and major depression during the past 12 months (51.4%) among these women compared to the national averages of 6.1% and 2.4%, respectively. More women (35.1%) reported having phobias and strong fears compared to 4.3% for the general U.S. population. During the past 12 months, 23% of women reported experiencing bipolar disorder and manic depression compared to 0.7% nationally. Also, 14% of women had antisocial, obsessive–compulsive personality, or another severe personality disorder versus 0.6% of all U.S. women. Women in this sample reported experiencing anxiety disorder (32.4%) and PTSD (16.2%). Other mental health disorders that some of the women experienced were schizophrenia (3%) and paranoid or delusional disorder (8%); rates for the general U.S. population were 0.1% and 0.3%, respectively. Although only 4.6% of American women identified themselves as disabled, 35.1% of the study sample identified themselves as disabled. It should be noted here that women were not asked, in this question, to identify the nature of their disability.⁵¹

3.2.3 Substance misuse

Female survivors of IPV are more likely to abuse drugs and alcohol. They receive prescriptions for more drugs and become dependent on drugs more often than non-victimized women. Fowler (2007) examined a sample of 102 women in a domestic violence shelter and found over two-thirds of women scored in the moderate to high category for risk of substance abuse. In addition, nearly 60% of the women were alcohol dependent, and 55% were drug dependent. In a study conducted with 71 domestic violence shelters for women in North Carolina, 47% percent of the shelters reported 26 to 50% of the women in their shelter had substance abuse problems, and 24% reported more than 50% of their clients had substance abuse problems (Martin et al., 2008). Other studies have replicated findings showing elevated levels of alcohol use among victims of IPV (Danielson, Moffitt, Caspi, & Silva, 1998; Watson et al.,

⁵¹ Christine A. Helfrich et al, **Journal of Interpersonal Violence** Volume 23 Number 4 April 2008 437-453

1997). In addition, more frequent victimizations are linked to a greater likelihood of substance use in women (Logan et al., 2006). Golding (1999) conducted a meta-analytic review of intimate partner violence as a risk factor for mental disorders. This study did not find any links relating temporality of substance abuse to intimate partner violence. However, in later years, more research identified substance use as a crucial risk factor both for victimization and perpetration of IPV (Caetano et al., 2000, Caetano et al., 2001, Chase et al., 2003, Coker, Smith, McKeown, & King, 2000, Cunradi et al., 2002, and White and Chen, 2002). Findings predominantly indicated two-thirds of women in substance abuse treatment programs reported IPV victimization in the pretreatment year (Drapkin et al., 2005, Lipsky, 2010 and Najavits et al., 2004).

3.2.4 Self-Esteem

Victims of violence are likely to feel guilt, shame, and self-blame for being abused (Lindgren & Renck, 2008; Weaver & Clum, 1995). Unfortunately, this can contribute to a vicious cycle as victims who have negative self-images are less likely to take steps to avoid or exit abusive relationships (Clements & Sawhney, 2000; Umberson, Anderson, Glick, & Shapiro, 1998). Further, self-esteem damage can occur if acquaintances or professionals blame the victim for not preventing her abuse (Eddleson, 1998). These types of negative societal reactions are possibly related to several of the mental health issues such as depression or anxiety that are common among victims of IPV. As the aforementioned passages demonstrate, IPV has a wide variety of mental health consequences for women that can range from mild to severe. The aim of this paper is to explore self-identified mental health needs of women who are victims of severe IPV, identify common patterns of mental health needs for these women; and to identify groups of women that are similar to each other in terms of their mental health needs.

Gunnur Karakurt⁵² et al (2014) reported in his study published in *J Fam Violence* that 42% ($n=15$) of women reported suicidal ideation, and 31% ($n=11$) reported attempting suicide at some point in their life, ranging from 2 weeks to 17 years ago. For actively suicidal women, suicide assessment was conducted and necessary precautions were taken. Moreover, 34% of women ($n=12$) reported regularly taking various medications for their mental and physical health.

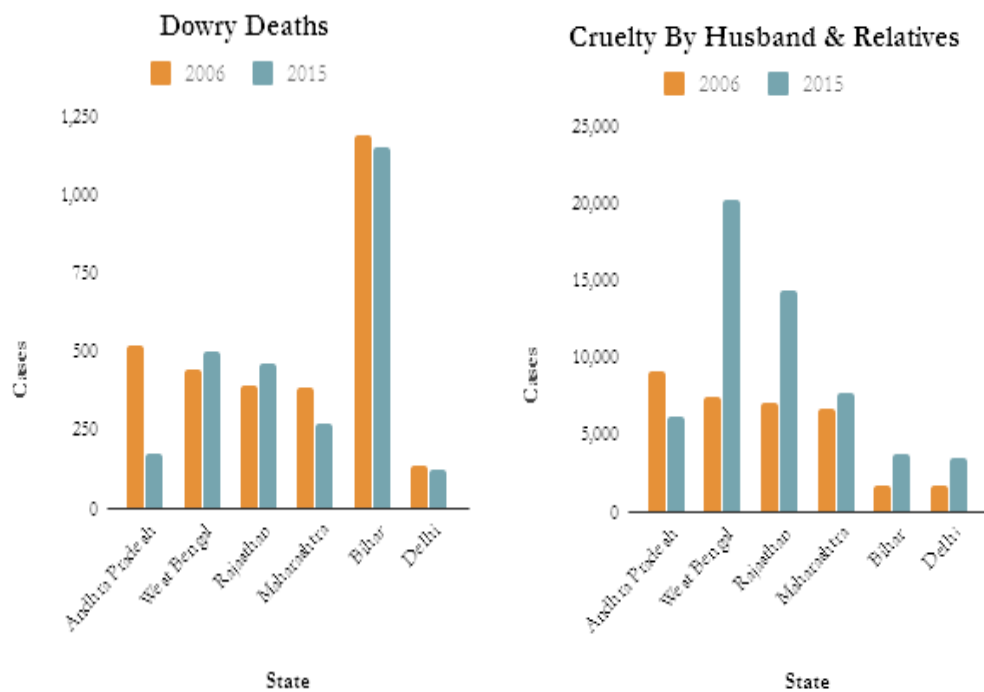
Women's poor mental health can result from psychological, physical and sexual violence within the home has strong consequences for their agency within the home, their wider

⁵² Gunnur Karakurt et al ,Impact of Intimate Partner Violence on Women's Mental Health, *J Fam Violence*. 2014 October 1; 29(7): 693–702.

participation in the community, and their involvement in the workforce. Women’s increased risk of mental health illnesses can also reinforce socio-cultural stereotypes that present women as mentally weaker than their male counterparts and can be used to justify the further oppression and subjugation of women by men within the family as well as within the wider community. Throughout Indian society mental Health illnesses are extremely stigmatized and many cases of mental Health disorders go unrecognized untreated. Women with mental health conditions are particularly unlikely to receive appropriate treatment and in most cases family members do not acknowledge these conditions or provide support for women suffering from these illnesses.

DV and women’s mental health is directly related to judiciary and rehabilitation of victims, although the protection under domestic violence act law was enacted in 2005, the NCRB only started collecting data under the law in 2014, according to this 2017 Lok Sabha answer.

Figure 2 & 3



(Source: NCBR)

Some research also suggests that women do not always tell their General Physician (GP) of abuse. Only 0.25% of women on the primary care lists used in the study had reported domestic abuse to the GP – while police report that one in four women are affected over their lifetime. The primary care records relating to 92,735 women in the UK between 1995 and 2017.

It matched 18,547 women who had reported abuse with 74,188 women who had not. They made allowances for other factors that can play a part in mental health such as deprivation, smoking and drinking habits and body mass index, a measure of obesity.⁵³

3.2.5 Anxiety

This can be general anxiety about everything, or it can be a sudden attack of intense fear. Anxiety can get worse over time and interfere with your daily life. If you are experiencing anxiety, you can get help from a mental health professional. Other effects can include shutting people out, not wanting to do things you once enjoyed, not being able to trust others, and having low-esteem. Many women who have experienced violence cope with this trauma by using drugs, drinking alcohol, smoking, or overeating. Research shows that about 90% of women with substance use problems had experience physical or sexual violence. Substance use may make you feel better in the moment, but it ends up making you feel worse in the long-term. Drugs, alcohol, tobacco, or overeating will not help you forget or overcome the experience. Nutritional anemia results from inadequate availability of micronutrients required for hemoglobin synthesis, accounting for 841,000 deaths and 35,057,000 disability-adjusted life years lost annually, predominantly in low-income countries (Stoltzfus 2003). The burden of chronic mal-nutrition falls disproportionately on developing countries, including India. In 1998-1999, anemia afflicted 74% of children and 52% of women of childbearing age in India, while 47% of children and 36% of women of childbearing age were underweight (IIPS NFHS-3 2007). Although bio-medical and socioeconomic risk factors for malnutrition in India are well (Stoltzfus 1998, Subramanian et al. 2007, Kumar 2005), the role that psychosocial factors play in anemia and underweight is less understood. Exposure to domestic violence is a psychosocial factor that may be associated with anemia and underweight for women as well as their children. Domestic violence increase psychological stress among Indian women (Vizcarra 2004). Psychological stress increase oxidative stress and metabolic levels risks factors for anemia and underweight (Epel 2004). Domestic violence could also increase the risk of poor nutritional outcomes through environmental circumstances such as the withholding of food by abusive family members (Raj 2006). The effects of violence on a victim's health are far-reaching and devastating. Women who are battered may suffer from a variety of medical problems, from depression to chronic pain;

⁵³ <https://www.theguardian.com/society/2019/jun/07/domestic-abuse-victims-more-likely-to-suffer-mental-illness-study>

they may also be at an increased risk of sexually transmitted infections (STIs) or unplanned pregnancies. They may need to miss significant amounts of work due to medical problems.

Worldwide, 40-70% of all female murder victims are killed by an intimate partner. Victims of domestic violence are more likely to commit suicide. Domestic violence also contributes to other forms of violence against women; women who experience violence at home may be more willing to look for and accept an uncertain and potentially risky job abroad, placing them in danger of being trafficked. Domestic violence also has significant consequences for children, family, friends, co-workers, and the community. Family and friends may themselves be targeted by the abuser in retaliation for helping a woman leave a violent relationship or find assistance.

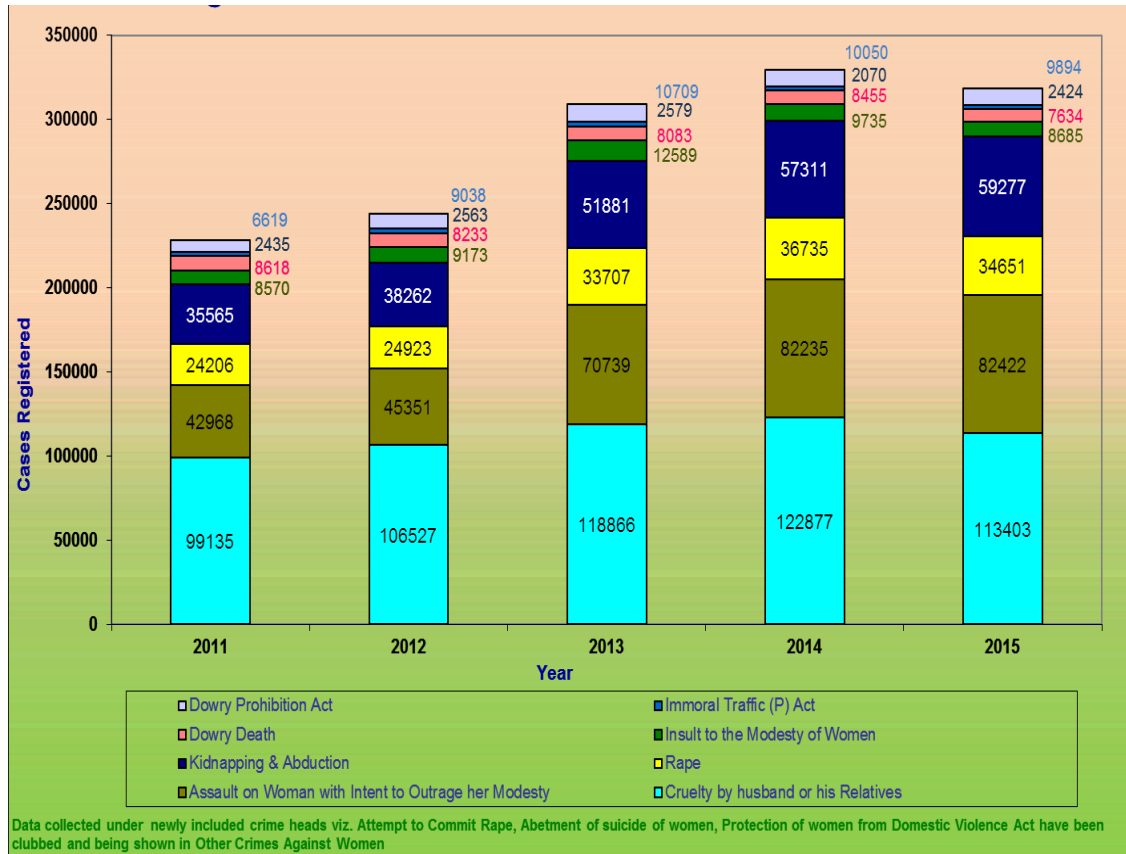
The effects violence on a victim's health are severe. In addition to the immediate injuries from the assault, battered women may suffer from chronic pain, gastrointestinal disorder, psychosomatic symptoms, and eating problems. Although psychological abuse is often considered less severe than physical violence, health care providers and advocates around the world are increasingly recognizing that all forms of domestic violence is associated with mental health problems such as anxiety, post-traumatic stress disorder, and depression. Women who are abused suffer an increased risk of unplanned or early pregnancies and sexually transmitted disease, including HIV/AIDS. As trauma victims, they are also at an increased risk of substance abuse.

According to a U.S study, women who experience intimate partner abuse are three times more likely to have gynecological problems than non-abused women. Women are particularly vulnerable to attacks when pregnant, and thus may more often experience medical difficulties in their pregnancies. Recent research has called for increased study of pregnancy associated deaths. "Pregnancy associated deaths" are "deaths occurring to women who have been pregnant within the previous year". A study conducted by researcher in Maryland of 247 pregnancy associate deaths found that the leading cause of death was homicide.

Thus, in this chapter we examine how several different demographic and health outcomes for women vary by women's experience of domestic violence. With the objective measure of Anemia and underweight, we investigated the extent to which domestic violence predicts the likelihood of being malnourished among women in India. BMI and anemia are affected by many variables including age of the women, number of children, parity, and access to health care or

prenatal care, poverty, education rural residence and HIV/AIDS or any other chronic disease. We examine women’s physical health through two measure of nutritional status: body mass index (BMI) and anemia status.

Figure 4 DV cases registered during 2011-2015



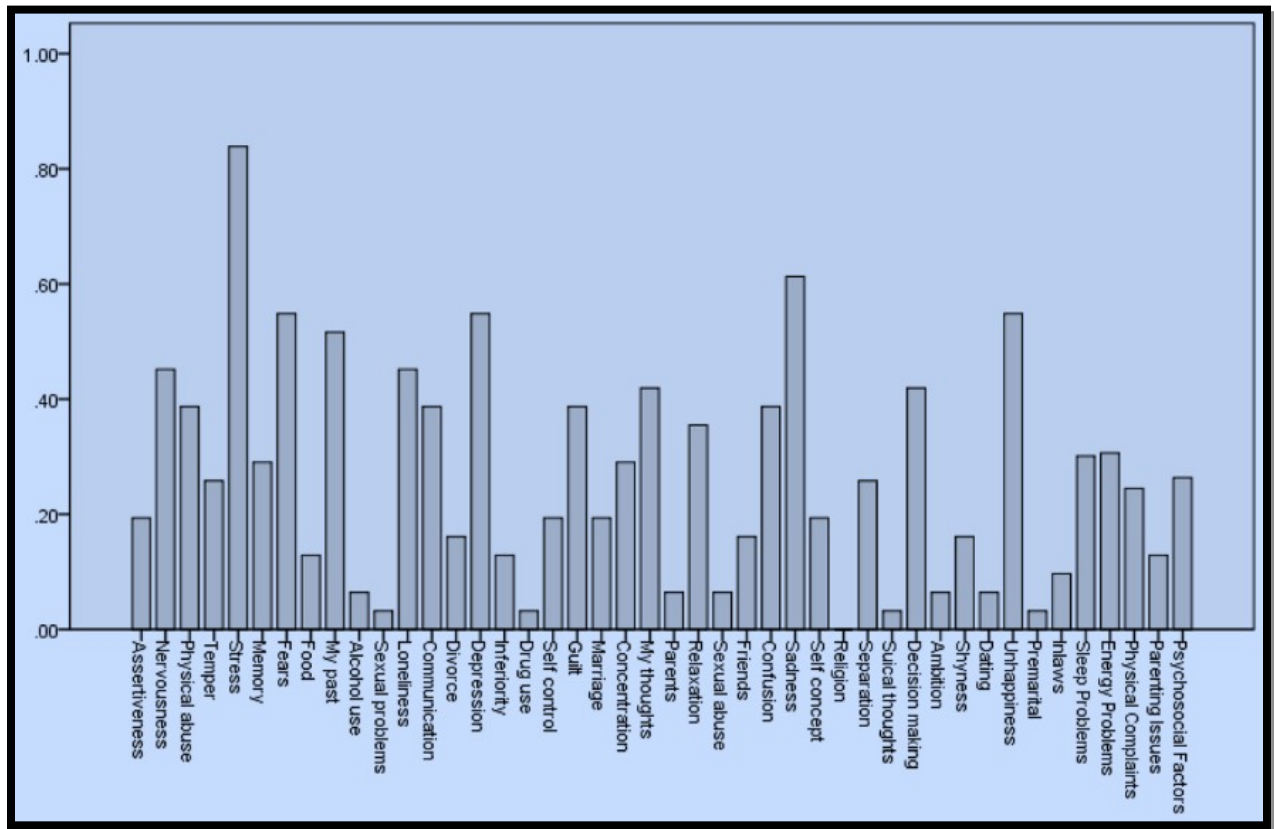
(Source NCRB report)

Kumar *et al* (2005) reported that in developing countries, where families are closely knit and cohesive, domestic violence was thought to be uncommon. However, studies of domestic violence in developing countries show a similar prevalence to that in developed countries. In Sri Lanka a survey at the out-patient department of the North Colombo Teaching Hospital in Ragama, a semi-urban area in the suburbs of Colombo, found that 40.7% of women had been abused by their partners (further information available from the authors on request). The abuse was physical as well as verbal, emotional and sexual and most women reacted in a submissive manner: 79% of those abused have stayed in their marriages for more than 10 years. This

submissive behaviour could be because Sri Lankan women usually lack the means to leave their husbands and live independently and the fact that society looks down upon such women.⁵⁴

Shuba Kumar et al (2005)⁵⁵ reported that out of 9938 women surveyed, 40% reported poor mental health. In his study showed that women reporting ‘any violence’ – ‘slap’, ‘hit’, ‘kick’ or ‘beat’ 95% or all violence, all of the four types of physically violent behaviour (OR 3.5, 95% CI 2.94–3.51) – were at increased risk of poor mental health.

Figure 5 (Column graph based on means of the self-identified mental health needs of abused women)



(Souses Karakurt et al.)

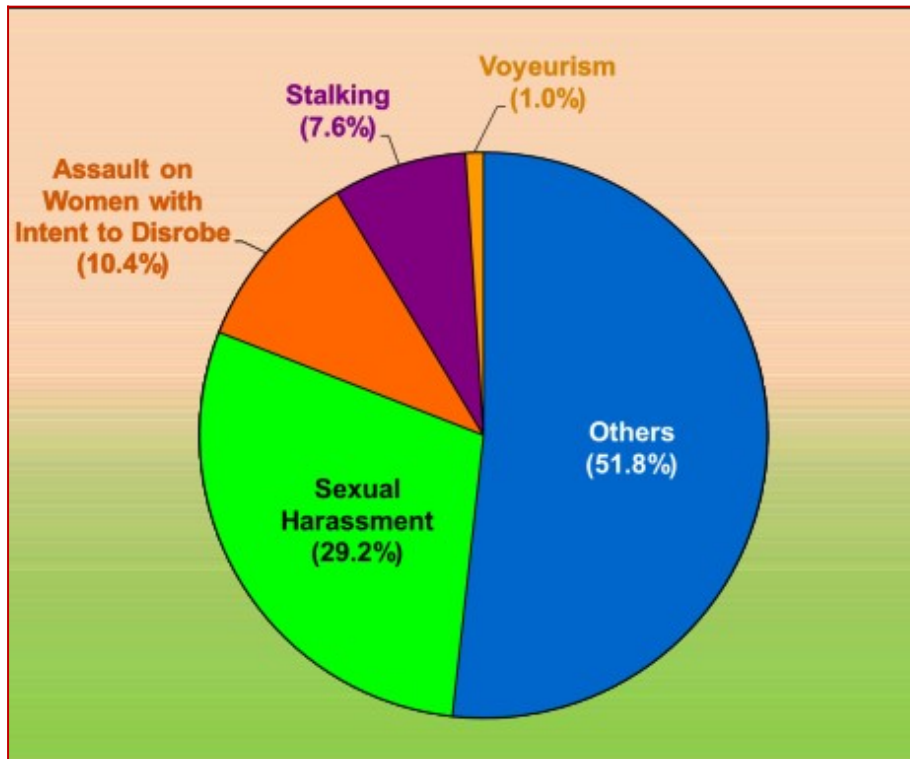
There is sufficient evidence in the literature which has established this bidirectional nature of mental health issues and domestic violence. A review of the international literature found high prevalence rates of intimate partner violence among men and women across all the diagnostic categories of the mental disorders. The prevalence of intimate partner violence was found to be

⁵⁴ Kumar, S., Jeyaseelan, L., Suresh, S., *et al* (2005) Domestic violence and its mental health correlates in Indian women. *British Journal of Psychiatry*, 187, 62–67.

⁵⁵ Shuba kumar et al ,Domestic violence and its heath correlation in in Indian women , 133 vol 187, issue 1 2005 pp 62-67

45.6% among patients suffering from depressive disorders, 27.6% in anxiety disorders, and 61% for PTSD⁵⁶ and there is also evidence to suggest the causal association between domestic violence and mental health issues. The severity and the duration of the physical intimate violence are associated with the frequency and the severity of the depressive symptoms. Similar evidence exists for PTSD which suggests that extent, severity, and duration of the abuse are directly associated with the intensity of the posttraumatic stress symptoms.⁵⁷

Figure 4 (Distribution of sub-crime heads of assault on women with intent to outrage her modesty during 2015)



(Source NCRB)

It is also observed in various study that men in childhood witnessed certain kind violence against women in their family. Martin L Surendra et al (2002) published paper International Journal of Epidemiology as one-third of the men had witnessed parent-to-parent violence as a child.

Table 3 (children Witnessed DV in childhood)

⁵⁶ Trevillion K, Oram S, Feder G, Howard LM. Experiences of domestic violence and mental disorders: A systematic review and meta-analysis. PLoS One 2012;7:e51740

⁵⁷ Jones L, Hughes M, Unterstaller U. Post-traumatic stress disorder (PTSD) in victims of domestic violence. A review of the research. Trauma Violence Abuse 2001;2:99-119

	Father and mother beat or physically mistreated one another	Father beat or physically mistreated mother	No violence in family of origin
District of residence			
Banda (n = 1726)	7%	42%	51%
Gonda (n = 1085)	12%	21%	67%
Aligarh (n = 1137)	4%	23%	74%
Nainital (n = 1101)	3%	15%	82%
Kanpur Nagar (n = 1107)	4%	12%	84%
Socioeconomic status			
Lower (n = 1838)	9%	33%	58%
Higher (n = 4318)	5%	21%	74%
Men's education level			
Lower, <6 years (n = 2936)	7%	29%	64%
Higher, ≥6 years (n = 3220)	5%	20%	74%
Men's age			
Younger, <31 years (n = 2144)	7%	28%	66%
Older, ≥31 years (n = 4012)	6%	23%	71%
No. of children in household			
Fewer children, <4 (n = 3625)	6%	26%	68%
More children, ≥4 (n = 2531)	6%	23%	71%
Years married			
Longer, ≥17 years (n = 3075)	7%	24%	70%
Shorter, <17 years (n = 3081)	6%	26%	69%
Men's parents in household			
No (n = 1088)	6%	25%	69%
Yes (n =	6%	25%	69%

(Source Sandra L Martin & Jacquelyn C Campbell et al 2002)

Compared to men raised in non-violent homes, men from violent homes were significantly more likely to believe in husbands' rights to control their wives, and to be physically/sexually abusive toward their own wives. Non-violence in the earlier generation was strongly predictive of non-violence in the second generation, with about a third of the wife abuse in the second generation being attributable to parent-to-parent violence in the first generation.⁵⁸ Almost one-third of the men (30.8%) reported witnessing some type of parent-to-parent violence within their families of origin as children or adolescents. Approximately 6.2% of the men reported that both their mother and father had beat/physically mistreated one another; 24.5% reported that their father had beat/physically mistreated their mother, but that their mother had not beat/physically mistreated their father; and 0.1% of the men reported that their mother had beat/physically mistreated their father, but that their father had not beat/physically mistreated their mother.(table 3)

3.3 Social Impact of Domestic Violence^{59 60}

Sociological perspective on mental health is posited as an antithesis to the reductive claim that mental disorder is inevitably linked to biological or psychological anomalies. The pith and marrow of the sociological perspective is that the external environment, that is the socio-cultural context in which an individual is located, is replete with elements that have a direct bearing on mental health. In other words, causal factors related to mental disorders may well be located outside of the self and in the external environment which is laden with possibilities of affecting mental health. The chapter bares forth the fact that social factors exercise a decisive influence on mental health; the same not only plays a role in straining mental health but also influences the conceptualization of what a society considers as mental disorder, shapes social attitude towards those suffering from mental disorders and also impacts the treatment mode of the same. The merit of this approach lies in the attention it accords to factors such as negative life events, sustained exposure to social stressors, demanding social roles, lack of social support

⁵⁸ Sandra L Martin & Jacquelyn C Campbell et al , Domestic violence across generations: findings from northern India, *International Journal of Epidemiology*, Volume 31, Issue 3, June 2002, Pages 560–572,

⁵⁹ Busfield, J. (1996). *Men, Women and Madness - Understanding Gender and Mental Disorder*. New York University Press, New York.

⁶⁰ Horwitz, Christopher. (2010). An Overview of Sociological Perspectives on the Definitions, Causes, and Responses to Mental Health and Illness. In Scheid, T. L. and Brown, T.N., editors, *A Handbook for the Study of Mental Health*, pages 89-105, Cambridge University Press, New York, 2nd edition.

and cultural values as potential threats to mental health. This aspect is largely ignored by the biological and the psychological perspectives on mental health which therefore heightens the relevance of the sociological perspective as the same uncovers a host of causal factors located in one's social milieu that pose as deterrents to mental health. The structural organization of society that awards differential status to different social groups, social values that either coalesce or disintegrate individual members or groups of a society, cultural values and ideals that shape the inner and outer worlds of individuals of a society all lend their influence on mental health (Busfield,2000;Horwitz,2010).

India's National Family Health Survey-III, carried out in 29 states during 2005-06, has found that a substantial proportion of married women have been physically or sexually abused by their husbands at some time in their lives. The survey indicated that, nationwide, 37.2% of women "experienced violence" after marriage. Bihar was found to be the most violent, with the abuse rate against married women being as high as 59%. Strangely, 63% of these incidents were reported from urban families rather than the state's most backward villages. It was followed by Madhya Pradesh (45.8%), Rajasthan (46.3%), Manipur (43.9%), Uttar Pradesh (42.4%), Tamil Nadu (41.9%) and West Bengal (40.3%).⁶¹

Hence the effect DV on women's mental health is not only aggravating but also a alarming sign to civilized world that problem of half of population cannot be left without addressing it

CHAPTER IV

Social-cultural and Judicial Aspect of Domestic Violence

4.1 Social-cultural Aspect of Domestic Violence

Violence against women grows out of the nature of society. The social norms in our society justify male violence against women. It is generally believed that home is the only safe place for a woman. However, most acts of violence are committed on women in the home itself. Battering of various forms occurs within the four walls of the house.⁶² The issue of violence in the home has been a complex and troubling issue for women and girl children, with practices ranging from female foeticide to the evil of dowry and the range of abuses that surround it to

⁶¹ Ministry of Health and Family Welfare. Govt of India; Fact Sheet: National Family Health Survey NFHS-III 2005-06.

⁶² Kalpana Rao. (1999). *Encyclopaedia of violence against women and dowry deaths in India*. Vol. 3. New Delhi: Anmol Publications Pvt. Ltd. p.874.

widow immolation and desertion, making the family a site of great vulnerability for women. Domestic violence is an affront to everyone, not only the victim. The process of socialization always aims at reinforcing the values justifying and strengthening the power relations in the social system. Women are expected to conform to the society's ideals. In almost every society, the husband enjoys higher status than the wife. Social pressures force women to maintain the status-quo. Domestic discord often leads to battering of wives at the hands of their husbands or in-laws. A woman who does not accept the traditional role of submissiveness and subordination needs to be tamed into accepting this position and any means specially violence is justified in achieving this goal.⁶³ All too often women believe it is a sign of commitment, an expression of love, to endure unkindness or cruelty, to forgive and forget. There is legitimization of intra-familial violence and the victimization of women. The Indian society is a traditional society where women have been socially, economically, physically, psychologically and sexually exploited, sometimes in the name of religion, sometimes on the pretext of writings in the scriptures and sometimes by social sanctions. Domestic violence is one such instance of exploitation and torture which an average Indian woman has to face⁶⁴

The biological and psychological factors impact upon mental health, the aetiological role of socio-cultural factors ought not to be slighted, as the same has the propensity to substantially threaten mental health. Socio-cultural factors are particularly pertinent to the study of women's mental health. The configuration of socio-cultural factors characterizing the lives of women put them at distinct disadvantage in comparison to their male counterparts; the disadvantageous circumstances in which women find themselves hedged in, it is argued here, has a negative bearing upon their mental health. The sociological perspective on mental health of women, therefore, takes into account the subjective experiences of women and how the same shapes their mental health. The social aetiology of mental disorders particularly in the context of women has been a long ignored discourse while the disquisition on the biological genesis of mental disorders has held sway, therefore the subjective experience of women and the dynamics of their social circumstances had largely been pushed to oblivion (Busfield, 2000).

⁶³ Amarjit Mahajan and Madhurima. (1995). *Family Violence and Wife Abuse in India*. New Delhi: Deep and Deep Publications

⁶⁴ R.K. Bag. (1999). "Domestic Violence and Crime against Women – Criminal justice response in India". *Criminal Law Journal*, Vol. 105, January 1999, pp. 1-12

The sociological perspective on mental health, however, invites attention to stressful circumstances in which women in patriarchal societies find themselves and the mental distress they suffer owing to the same. Taking lead from Bhargavi Davar's (1999) argument, the present study has worked around the conviction that distress experienced by women on account of deleterious socio-cultural factors causes common mental disorders or neuroses among them. Common mental disorders such as depression, hysteria, somatization, compulsive disorder and dissociative behaviour commonly feature more among women and, as the conviction goes, may be traced to their life circumstances rather than to neuro-biological anomalies. So it is very mandatory to search position of women in various cultures.

4.1.1 Position of Women Vedic & post Vedic era

During the Vedic age, women occupied an exalted position in society, but the dark age of womanhood started with Manu who turned her into a bonded labour and with the advent of Islam, she was almost imprisoned in the four walls of her house. Though 21st Century saw tremendous changes and various laws were passed for the betterment and amelioration of women, the new found opportunities melted away like thin ice before the subtle and camouflaged onslaught of the male chauvinism.

The highest place has been accorded to women in Indian religious and philosophical thought. The primordial one is conceived as a harmony of 'purusha' (male) and 'prakrati' (female). The concept of 'ardhanarishwar' describes god- head as half female and half male. The 'Shakti' cult is centered on the superiority and destructive strength of the females. Rivers and streams, dawn and twilight, flowers and seasons, knowledge and music are conceived of as feminine.

The position of power status and disabilities of the daughter, the wife, and the widow went on changing in course of time. Women enjoyed considerable freedom and privileges in the spheres of family, religion and public life, but as centuries rolled on, the situation went on changing aversely. The position which women occupied in Hindu society at the dawn of civilization during the Vedic age is much better than what we ordinarily expect it to have been.

There is not one verse, not even a word indicating a slighting humiliation or an insult for women in the Vedas. Instead, women are friends in life's journey, creator, mentor, guide and

partners in all fields. The very word 'mahila' is made up of the root with which means the repository of greatness and goodness. There is no such word as 'mahila' in any language, European or Asian.⁶⁵

Throughout the Vedic period, woman was given a status equal to man's to participate in sacrificial rites, to undergo the investiture ceremony, and to be man's equal in upholding 'dharma'. She could fight wars, join in festivals, take part in philosophical discussions like Gargi and Maitreye, or even remain unmarried if she so desired.

In the Vedic period women participated in all the fields like men and took active part in every sphere of human life. During that period, women enjoyed a fair amount of freedom and equality with men. Women studied in 'gurukul' and enjoyed equality in learning Vedas. For a long time, girls in higher societies were allowed to undergo 'upnayana' rite. The great women like Ghosa, Apala, Lopamuder, Visvara, Gargi, Atreyi, Indrani, Yami and others had distinct qualities of art, music dance and even fighting in the battle. Purdah was not in the Vedic period. In the matter of selecting the life partner in marriage, women had equal right. The example of polygamy was rare and mainly confined to ruling class. Dowry system was prevalent in rich and royal families only in the form of movable gifts. A widow could marry again or could undertake the recourse of 'niyoga'. The Indus valley civilization recorded the beginning of the cult of worshipping earth or goddess. But there still were certain restrictions on women's right. In Vedic times, there was no discrimination between boy and girl. There were two class of girls:

- The Brahm-Vadini students, who donned the sacred thread, constant reminder of the holy vows, tend the fire, and study the Vedas, but in distinction from the boy students, do the begging for alms within their own parental homes,
- The Sadyo-Vadhey who are given only symbolically and formally immediately before marriage. Men used to regard women as partners in managing the affairs during the 'grihasta', 'vanaprastha' and 'sanyasa' 'ashram' in life and consequently women enjoyed a quality of life comparable to that of the men.⁶⁶

In order to understand the position of women in Vedic period, we have to see Vedas as it. In Atherva Ved (AV 11/5/18) described "Girls should train themselves to become complete scholar

⁶⁵ Khanna Verghese, India Women Today, (1978),.1

⁶⁶ Dewan, V.K., Kaw Relating to offences Against Women, (1996), p.32.

and youth full through bramhacharya and then enter to married life.” (AV 7/47/1) “O women you are keeper of knowledge of all types’ action (karma).” (AV 2/36/3) “May this bride become the queen of house of her husband and enlighten all.”⁶⁷

The Hindus’ love of philosophic speculations dominant in the third set of sacred, scriptures the Upanishads, where even women display interest in philosophic discussion. Some Hindu women as Uma, Gargi and Maitreyi were notable for their learning as in evidenced by the philosophic disputations reported in the Upanishads

In the Upanishads, woman is referred to as having been created by the primeval being. Brihad Arayanka says that ‘a man’s wife is his voice’ (His mind truly is his self (Atman): his voice is his wife). The condemnation of a barren woman is continued throughout the centuries from Vedas into the Upanishads. False teaching is likely to a barren woman. But when it comes to Manu smriti we find both appreciative and depreciative, towards women.⁶⁸

In the sacred scriptures of Hinduism, there are many elements of strength too with regard to womanhood. There is praise and admiration for the feminine. In the early Vedas, we find a deep reverence for the mother, she had the privilege of giving religious instruction to her children. Monogamy was practiced generally and in many cases, a girl was allowed the choice of a husband. Widows could remarry. Wife burning is not found in Vedas. Again and again, the Hindu scriptures repeat that women are to be honored. Religious deeds are said to be useless if women are not honored and cherished. Hindu sacred scriptures support the ideal of equal comradeship and mutual benefits for men and women.⁶⁹

4.1.2 Women in Buddhism: Buddhism rose as a protest against the rigid rules of Brahmanism. In the post-Vedic period the dominance of rituals increasingly grew, which gave indomitable power to the Brahmanism. Buddhism opened the doors of religion to all human beings without any distinction. Buddhism is in its essence, a religion of self-culture and self restraint. If a woman could achieve these two qualities, she was entitled to achieve ‘Nirvana’ like men. Thus, after a long period, since the dissolution of the Vedic society, the doors of religion were once again opened to woman and her right to salvation proclaimed. The advent of Buddhism saw a welcome change in women’s position in the society. It allowed women the freedom to be educated, to travel as missionaries or even to remain unmarried.⁶¹ As far as lay

⁶⁷ Priya vedavachaspati, mera dharma, guru kul kangari university peg 9

⁶⁸ Khanna, Verghese, Indian Women Today, (1978), p. 2.

⁶⁹ Pinkham, W.S.S.H., (1941) pp.187, 189-90.

women were concerned, their condition was also not bad when Buddhism was dominant in India. There are reference which show that the birth of a daughter was not regarded a calamity.⁷⁰

Though Buddhism accorded high status to women, it also considered woman an evil to be avoided by men. This was probably due to the austere measures of the Buddhist high priests for their menfolk. The 'jataka' tales are full of long passages describing the evil and vale nature of women.⁷¹

It can be said that in the initial stages, when corruption had not crept in the religious world of Buddhism, it worked as a powerful democratic force against the narrow outlook of the Brahmanic culture pattern that was slowly emerging. The right of admission to the religious order generated self-confidence among women. "With the growing perception that their wife was worth as an end in itself, there was liberated a spirit of independence in women."⁷²

4.1.3 Women in Christianity: The book of genesis states that God made man as male and female. So no differentiation in right or status is required. Yahewh or God said, "It is not good that men should be alone. I will make him a help mate". So he fashioned woman as the help-mate of Adam, which bring out the fact that woman is companion of man; she comes out of his side; and stands always by his side. Her status and role were conferred by Yahewh himself, to be companion and wife to man and mother of all the living thing of the world. Her rile increases her status in the society. Polygamy was a legal fact. A man could have any number of wives and a hared. Later, the Talmud fixed the number to four wives for an ordinary man and eighteen for the king. These were abuses, which later were made legal. When coming to the new Testament, the first woman seen is Mary, the mother of Jesus. The fact that she is accorded the status of the mother of Jesus is important. She was a companion and wife to Joseph and nurtured Christ and stood near his cross taking upon herself the ignominy and pain and accepting the rejection of the Jews. Mary is the second eve, according to the Christian theology and is the mother of all the living who believe in Jesus Christ. The Indian Cristian woman brought up under the prevailing religions and sociocultural patterns has lived in the false security of the male dominated church-related institutions.

4.1.4 Women in Sikhism: The Sikh doctrine brought revolutionary change in the status of woman and they fully participated in "Sangat" and "Pangat" established by Guru Nanak. The

⁷⁰ Hamer, L.B., Women Under Primitive Buddhism, n.d., pp. – 19-20.

⁷¹ Khanna,Verghese, Indian WomenToday, (1978), p.3

⁷² Harner,L.B.,Women Under Primitive Buddhism, n.d., p.95

practice of 'sati' has been condemned. The 'purdah', veiling of women's face, was eradicated. The practice of female infanticide is forbidden. Guru Amardas opened twenty two centers called 'Manjis' and to manage them, he appointed thirty five men and fifty two women. Thus, women felt much relieved and their status rose highly and they started working with men shoulder to shoulder in the new society guru Nanak did not criticize any religion but deviated to the extent that he stressed on the practical side of the life and attacked dogmatism and formalism and casteism. The taboo that for certain period after child birth a house is polluted, is not accepted. The emphasis has been on selfrestraint and continence, so that man should look at woman, however attractive, as primarily either sisters, daughters or mother (except the woman whom he married). Even within this broad perspective, the status of women in the Sikh community is again in a state of transition.

4.1.5 Women in Jainism: 'Atma' has no division of male or female. Woman in particular has a unique position as 'Jana Matha', the woman who give birth to Thirthankara, the Jain deity. She has the highest position as the mother of nature. History is full of names of Jain women who did a lot for society and their religion. It is stated in the 'Mahapurana' that woman has the same rights as man, to get educated, take up jobs and so on, Vrishabha Deva, the first 'Thirthankara', is said to have imparted knowledge of language and mathematics to his daughters first and only then to his sons. He taught the Jain alphabets to his daughter Brahmi, thus the famous 'Brahamilipi' is named after her. He taught Mathematics to his youngest daughter Sundari. Chandrabala, the first disciple of Mahaveer, helped in propagating Jainism most effectively. Jain nuns worth names are Kamalasree, Brahmilee, Gunamathi, Sudarsana and others, as found in the oldest Kannada work Voddarathane of the 10th century. These nuns were able to influence the social life during the period. Among all the Jain nuns Yakini Mahathara was the greatest intellectual as she defeated a Brahmin Pandit named Haribhadra Auri in theoretical arguments. Jain women were also excelled in the political field and they proved themselves as remarkable warriors. Margarines's bravery among many others is notable. Though the Jain women have shown greatness in almost all the fields of social life and brought glory to humanity, they were still responsible for the continuation of *Sati* practice. This system symbolizing the authority of men has conceded with the sense of sacrifice⁷³

⁷³ Dewan, V.K., Law Relating to Offences against Women, (1996), pp. 35-36

4.1.6. Women in Islam The historical record shows that Muhammad consulted women and weighed their opinions seriously. At least one woman, Umm Waraqah , was appointed imam over her household by Muhammad. Women contributed significantly to the canonization of the *Quran*. A woman is known to have corrected the authoritative ruling of Caliph Umar on dowry. Women prayed in mosques unsegregated from men, were involved in hadith transmission, gave sanctuary to men, engaged in commercial transactions, were encouraged to seek knowledge, and were both instructors and pupils in the early Islamic period. Muhammad's last wife, Aishah , was a well-known authority in medicine, history, and rhetoric. The *Quran* refers to women who pledged an oath of allegiance to Muhammad independently of their male kin. Some distinguished women converted to Islam prior to their husbands, a demonstration of Islam's recognition of their capacity for independent action. Caliph Umar appointed women to serve as officials in the market of Medina. Biographies of distinguished women, especially in Muhammad's household, show that women behaved relatively autonomously in early Islam. In Sufi circles, women were recognized as teachers, adherents, “spiritual mothers,” and even inheritors of the spiritual secrets of their fathers.⁷⁴ But some scholar disagree with theory and stated that The tragic irony of Islam is that its sacred text, the Qur'an, is particularly solicitous of women's well-being and development, yet Islamic traditions discriminate against girls from the moment of their lamented births. Islam is proud to have abolished female infanticide, yet one of the most common crimes in many Muslim countries is the "honor killing" of women by male relatives. The Qur'anic description of marriage suggests closeness, mutuality, and equality, but tradition defines a husband as his wife's god in earthly form (despite the Qur'an prohibition against human deification as the one unpardonable sin), her gateway to heaven, and the arbiter of her final destiny. The Qur'an permits divorce without fault, but Muslim societies have made divorce both legally and socially very difficult for women. The Qur'an stipulates that both parents must concur on the raising of children and not use the children against each other, but in many Muslim countries divorced women automatically lose custody of their children when the boys turn 7 and the girls 12.⁷⁵

Women in Muslim Period: The invasion of the country by Muslims in 11th century brought about further deterioration of the position of woman. Life became insecure. Restrictions on her rights and freedom and her resultant hardships were aggravated. Women were forcibly

⁷⁴ <http://www.oxfordislamicstudies.com/article/opr/t125/e2510>

⁷⁵ Hassan R. Women in Islam: Qur'anic ideals versus Muslim realities. *Plan Parent Chall.* 1995;(2):5-9.

taken away to be slaves or to marry into Muslim homes. The consequent insecurity and instability further narrowed down woman's social liberties. On the one hand, the foreign Muslim conquerors attempted to impose their coercive norms on the conquered Hindu population, on the other hand, the Hindu society itself became more and more rigid curtailing thereby the rights and freedom of the lower castes and women due to this two-fold reasons. The 'post-puranic' period is one of the darkest periods for women in Indian history. The steady deterioration of her status continued till the 19th century. Polygamy and the '*pardah*' were two of the most important social institutions of the Muslim conquerors of India. Under the '*pardah*' system, not only were women required to live in a secluded apartment in the house, but also they had to dress in an apparel which completely covered their body excepting the eye.⁷⁶

Before the Muslim conquest, the Buddhism had not followed the custom of '*sati*'. Social sanction for the self-immolation of widows came in with Muslim invasion. Before Muslim rule, the practice of '*sati*' and anumaranam did occur off and on but not as a regular feature. As a result of repressive social and religious custom, a woman sometimes even preferred '*sati*' to widowhood.⁷⁷

Instances of Brahmin women who practiced '*sati*' are also recorded in the 15th century and after the foreign chronicler's record, the Hindu widows who did not observe '*sati*' were held in great dishonor. The practice of '*sati*' was also extended to the southern parts of India. The spectacle of the living widow consuming her body in fire was so gruesome that Ibn Batuta actually fainted when he witnessed one such instance. The widow in the case was persuaded to believe that her act of self-immolation was even more auspicious than the nuptial ceremony since it guaranteed the continual association with her husband in life after death.⁷⁸

Thus, in the 18th Century in the dawn of British rule, the position of women in India was in very narrow state. The Vedic liberties enjoyed by women in India were forgotten. Only a narrow and static society prevailed. The British government's attitude of non interference with the religious sentiments of the local people stopped all social reforms for a century. However, due to the pioneering work of some leaders, changes were brought about in the social structure of the 19th century. Large sections of women have suffered a decline of economic status. Even after the promulgation of these laws (legal measures), the protection enjoyed by the large masses of

⁷⁶ Desai, Neer, Women in Modern India, (1957), P. 23..

⁷⁷ Khanna, Verghese, Indian Women Today, (1978), P. 3

⁷⁸ Desai, Neera, Women in Modern India, (1957), P. 24.

women from exploitation and injustice is negligible. although women don't numerically constitute a minority, they are beginning to acquire the features of minority community by the recognized dimensions and inequalities of class, economic situation status (social position) and political power. The Chasm between the values of a new social order proclaimed by the constitution and the realities of contemporary Indian Society as far as women's rights are concerned remains as great as at the time of independence⁷⁹

4.2 Women Rights in Indian Constitutions and Judicial Aspect of Domestic Violence

Laws are a major tool in promoting and protecting the human rights and they play a vital role in the well-being of any society. The importance of laws for determining the quality of justice and facilitating justice delivery through judicial system cannot be overstated. They are like a double edged sword. Just as fair laws and right verdict can dispense justice, equally, unfair laws and wrong verdicts can lead to grave violation, turning the justice delivery system into a travesty of itself. To ensure impartial justice and to see that the rights of all women, men and children are respected equally, it becomes necessary to ensure that the laws themselves are impartial, free of gender bias and discrimination. They need to be relevant and tuned into the current context. Justice is subverted if archaic, patriarchal or discriminatory laws are adhered to.⁸⁰

4.2.1 Women Rights in Indian Constitutions⁸¹

Human rights are an integral part of the concept of human dignity which are protected by different provisions of the Constitution of India. It is a harsh reality that women have been ill-treated in every society for ages and India is not an exception to this universal problem. The irony lies in the fact that in our country where women are worshipped as '*shakti*', the atrocities are committed against her in all sections of the life. She is being looked down as commodity or as a slave, she is not only robbed of her dignity and pride outside her house but she also faces ill-treatment and other atrocities within the four walls of her house also. The women are being considered as an object of male sexual enjoyment and reproduction of children.

Women are deprived of economic resources and are dependent on men for their living. Women works are often confined to domestic sphere, she has to do all house hold works, which are not

⁷⁹ Mazumdar, Veena, Towards Equality, (1974), p.29.

⁸⁰ Goonesekere, Savitri. 'Violence law and Women's Right in South Asia'. 2004. p.8.

⁸¹ Raj Kumar Sarkar, the thesis submitted for the award of the degree of doctor of philosophy in law the university of burdwan, w.b. 20015

recognized and unpaid. In modern times many women are coming out to work but has to shoulder double responsibility, one she has to work where she is employed and secondly she also has to do all the house hold works, moreover, she is the last to be considered and first to be fired as she is considered to be less productive than her counterpart. Her general status in the family and in the society has been low and unrecognized.

Law cannot change a society overnight, but it can certainly ensure that the disadvantages are not given a raw deal. However, the courts can certainly go beyond mere legality insulting women against injustice suffered due to biological and sociological factors. Indian judiciary has been very sensitive to women and women related issues. The apex court took special interest in discharging its legal and constitutional obligations and safeguarding the interest of women in changing situation and societal demands.

The battle for gender justice has been a long drawn struggle. The sustained efforts of several social reformers, even in the face of resistance from social orthodoxy, have given impetus to the course of gender justice. Constitutional provisions, various laws and judgments of courts have made their own contribution to the cause of gender justice. However, more fundamental is the work and role of social reformers who sought to change the mindset of orthodox, tradition-bound society and usher in women's reforms in the social, economic and educational fields.

Hence there is a need to address vital issues for creation of maternity fund, ban on sex determination tests, reservation for women in government jobs, treating bride burning and dowry deaths as murders, provisions of public toilets and smokeless chulhas in villages, more hostels for single women in urban areas, making them as joint owners of house and land and making women co-sharers in the wealth and incomes of their husbands to bring women at par with men in the real sense.

4.2.2 Gender Justice and the Indian Constitution: The elimination of gender-based discriminations is one of the fundamentals of the constitutional edifice of India. In fact the constitution empowers the state to adopt measures of positive discrimination in favor of women for neutralizing the cumulative discriminations and deprecations' which women face.

Constitution of India has done a magnificent job in ensuring gender justice in the supreme law of the country. The preamble to the Constitution, inter alia, assures justice, social economic and political, equality of status and opportunity and dignity of the individual. It

recognizes women as a class by itself and permits enactment of laws and reservations favoring them. Several articles in our Constitution make express provision for affirmative action in favor of women. It prohibits all types of discrimination against women and lays a carpet for securing equal opportunity to women in all walks of life, including education, employment and participation. The commitment to gender equality is well entrenched at the highest policy making level in the Constitution of India. A few important provisions for women are mentioned below in brief.

4.2.3 Fundamental Rights (Part III): Article 14 of the constitution of India ensures to women the right to equality. Article 15(1) specifically provides for affirmative and positive action in favor of women by empowering the state to make special provisions for them; and the article 16 of the Constitution provides for equality of opportunity to all, in matters relating to public employment or appointment to any office and specifically forbids discrimination inter-alia on the ground of sex. These articles are all justiciable and form on the basis of our legal Constitutional history.

4.2.4 Directive Principles of State Policy (Part IV): Article 38 requires the State to secure a social order in which justice social, economic and political for the promotion of welfare of the people. It requires the state to strive to eliminate inequalities in status, facilities and opportunities. Clearly the intention of the makers of the Constitution was to ensure that equality would not be only of opportunity but in reality.

Article 39 puts down the principles of policy to be followed by the state which include that the state should direct its policy toward securing the right to an adequate, means of livelihood, that there is equal pay for equal work, that the health and strength of workers men and women, are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Article 42 requires the state to make provision for securing just and humane conditions of work and for maternity relief. Article 46 requires the state to promote with special care the education and economic interest of the weaker sections of the citizen. Clearly then the objective is to strive towards a gender just society.

4.2.5 Fundamental Duties (Part IV: A): In part IV:A of the constitution incorporated through 42nd Amendment Act, 1976, our natural obligation to renounce practices derogatory to the dignity of women has been elevated to the status of fundamental duty by article 51:A. The Equal Remuneration Act, 1976, the Maternity Benefit Act,

1961, the Dowry Prohibition Act, 1961 and the Immoral Traffic (Prevention) Act, 1956 are some of the enactments which owe their existence to the above mentioned provisions of the Indian Constitution.

4.2.6 The Constitution 73rd and 74th Amendments Act of 1993: The 73rd and 74th Amendments (1993) to the Indian constitution have served as a major breakthrough towards enhancing the women's participation in democratic process. These amendments provided for reservation of 33.33 per cent of elected seats. There is also a one-third reservation for women of posts of chairpersons of these local bodies. This is likely to be widened by constitutional amendment for women's representation in legislatures by reservation.

4.3 Indian Constitution and Special Provisions for Women and Children: As aforesaid under Article 15 of the Indian Constitution the State is empowered to make special provisions for women and children. For instance making of special seating arrangement in trains or buses is in no way unconstitutional.

4.3.1 Reservation of Seats for Women in College: The Bombay High Court in *Detta treya v. State of Bombay* has held that reservation of some seats in women's colleges is not unconstitutional. The court observed that establishment of educational institution exclusively for women is not hit by Article 15 of the Constitution.⁸²

4.3.2 U.P. Court of Wards Act, 1912: Proprietorship Relating to Property: In *Ram Raj Rajeswani Devi V. The State of Uttar Pradesh* wherein the issue related to a discriminatory provision in a statute was adjudicated under the U. P. Court of Wards Act, 1912. According to this Act a male proprietor could be declared incapable in managing his property only one of the five grounds mentioned therein and that to after giving him an opportunity of showing cause as to why such a declaration should not be made, a female proprietor could be declared incapable to manage her property on any ground and without giving her any show cause notice. The Allahabad High Court held that this provision was bad because it amounts to discrimination on the basis of sex which is violative of Article 5(1) of the Constitution of Indian, 1950.⁸³

4.3.3 Constitutional validity of Section 437 of the Code of Criminal Procedure, 1973
The mandate of Section 437 of the Code of Criminal Procedure permits discrimination in favor

⁸² AIR 1953 Bomb. 311.

⁸³ AIR 1954 All, 608.

of woman even if there appears to be a reasonable ground for believing that they have been guilty of an offence punishable with death or imprisonment for life.⁸⁴

In other words this section prohibits release of a person accused of a capital offence on bail except women and children under 16 years age of Sick or infirm persons. In *Choki v. State of Rajasthan*, the Rajasthan High Court has held that it is valid on the ground that it makes special provision for women and therefore it is protected under Article 15(3) of the Constitution.⁸⁵

4.3.4 Granting Licenses for Opening Liquor Shop: The Allahabad High Court in *Smt. Savitri v. Bose*, has held that Article 15(1) of the Constitution protect women from being discriminated on the ground of sex. Accordingly, the decision of the excise authorities to prefer men over women in granting licenses for opening of liquor shops was struck down as coming within the prohibition of Article 15(1). It was further held that such a discrimination was not permitted under Article 15(3) of the Constitution which authorizes the State to make special provisions for women as the special provision can give some advantage to women and can not be to their detriment.⁸⁶

4.3.5 The Immoral Traffic (Prevention) Act, 1956 and the Indian Constitution⁸⁷
Article 23 of the Constitution provides the right against exploitation. This constitutional provision prohibits traffic in human beings. In this context traffic in human beings includes 'devadashi system'. The Apex Court in *Vishal Jeet v. Union of India*, observed that trafficking in human beings has been prevalent in India for a long time in the form of selling and purchasing of human beings for prostitution for a price just like that of vegetables. On the strength of Article 23(1) of the Constitution, the legislature has passed the Immoral Traffic (Prevention) Act, 1956 which aims at abolishing the practice of prostitution and other forms of trafficking including 'devadasi system'. The court further observed that this Act has been made in pursuance of the International Convention which signed the declaration at New York (USA) on 9th May 1950 for the prevention of immoral traffic. In the view of the above statutory position and circumstances, the Apex Court upheld the validity of the said Act. Thus on the strength of the Constitutional

⁸⁴ Suresh Kumari V. State of Haryana, 1995 (4) Crimes 643 C.P.S. 14.

⁸⁵ AIR 1971 Raj 10.

⁸⁶ AIR 1972 All. 305.

⁸⁷ AIR 1990 SC 1412.

powers the state is permitted to enact special laws exclusively for women and children, even the State may make preferential statute to promote development of the women in every walk of life.

4.4 Some Land Mark Judgments

- **Woman shall not be denied a job merely because she is a woman:** In its land mark judgment the Apex Court⁸⁸ in *Air India v. Nergesh Meerza*, has held that a woman shall not be denied employment merely on the ground that she is a woman as it amounts to violation of Article 14 of the Constitution.
- **Denial of Seniority promotion on Ground of Sex:** Rules regarding seniority and promotion in the Indian Foreign service was challenged before the Apex Court in *Miss. C. B. Muthamma v. Union of India*. Where it has been held that t⁸⁹he Rules relating to seniority and promotion in Indian Foreign Service which make discrimination only on ground of sex is not only unconstitutional but also a hangover of the masculine culture of hand cuffing the weaker sex. In the instant case a writ petition was filed before the Apex Court it was contended that she had been denied promotion to Grade I on the ground of Sex, which violated Article 15 of the Constitution of India, 1950. The Apex Court allowed the petition and held that Rule 8(2) of the Indian Foreign Service (Conduct and Discipline) Rules, 1961 which requires that an unmarried woman member should take permission of the Government before she marries. After marriage, she may be asked any time to resign if it is felt that her family life affects her efficiency as of right to be appointed to the service (I.F.S.) contravenes Article 15 of the Constitution. In view of the above decision, now these provisions have been deleted.
- **Women's Reservation in Election to Local Bodies, Employment:** Reservation of seats for women in local bodies and in educational institutions can not be taken to mean as discrimination of ground of sex. The Supreme Court in *T. Sudhakar Reddy v. Govt. of Andhra Pradesh*⁹⁰
- **Uniform Civil Code and Gender Justice, Equality :** Article 44 the Constitution requires that state shall endeavour to secure for the citizen a uniform civil code throughout the territory of India. But women still experience inequalities and injustice. The founding fathers of the constitution were aware of the gender injustice and sexual inequality of

⁸⁸ AIR 1981 SC 1829.

⁸⁹ AIR 1979 SC 1868.

⁹⁰ 1993 Supp. (4) SCC 439.

women and they incorporated Article 44 of the Constitution with the aim that it may be exercised in future at appropriate time. It is really unfortunate that even after 50 years of independence the State did not find it necessary to make any serious endeavours to fulfil this constitutional obligation. As to the question regarding Uniform Civil Code the division bench (Justice Kuldip Singh and R. M. Sahani), in their concurrent but separate judgments in the aforesaid case observed that since 1950 a number of governments have come and gone but they⁶ they have failed to make any serious effort towards implementing the Constitutional Commitment made under Article 44 of the Constitution.⁹¹

4.5 The Reliefs Provided under the Act 2005⁹²: Protection Orders, Residence Orders, Monetary Reliefs, Custody Orders, and Compensation Orders. The act provides a large number of avenues for an abused woman to get relief. The next aspect of the act that needs to be analyzed is the relief it seeks to provide to the woman victim. A broad overview of the structured reliefs under the act suggests that they are not punitive in nature. They are restorative in nature providing for protection of a woman victim from any further abuse or compensating her for the abuse already suffered and additionally restoring stability and harmony in the family unit. It provides new civil remedies for the victims of domestic violence. The law recognizes new set of rights and obligations in the nature of torts remedy, to secure women in their own families. The main thrust of the law is to provide monetary assistance in the shape of damages, compensation, maintenance, exemplary cost and penalties. In the case of domestic violence, tortious liability arises with due intention. Some conditions are required for intention which are totally employed by domestic violence, conditions are: motive, malice, recklessness.

The Act is not exhaustive and is only complimentary in nature as it supplements the existing legislations and the reliefs structured under the Act and it is meant to act as only in addition to and not in derogation to that provide under the other enactments. The relief available under the act may be sought in any other legal proceedings before a civil court, a family court, or a criminal court irrespective of whether such proceedings were initiated before or after the commencement of the Act. The law complements existing matrimonial and criminal laws on domestic violence, so that women have a wider option in legal provisions that can be applied.

⁹¹ Thetimesofindia.com

⁹² www,legislative.gov.in

The different modes of relief envisaged under the Act are: Protection orders, Residence orders Monetary Reliefs, Custody orders, and Compensation orders. Each of such orders may be passed by the Magistrate while disposing of the application, depending on the reliefs sought for by the aggrieved person and taking into account the necessities of the victim at that point of time.⁹³

Information to Protection Officer and exclusion of liability of informant.—(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

Duties of police officers, service providers and Magistrate.—A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person—

(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability of services of the Protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);

(e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant:

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

Duties of shelter homes.—If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

⁹³ www.indiacode.nic.in/handle/123456789

Duties of medical facilities.—If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

Appointment of Protection Officers.—(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

Duties and functions of Protection Officers.—(1) It shall be the duty of the Protection Officer

—
(a) to assist the Magistrate in the discharge of his functions under this Act;

(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;

(d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;

(e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;

(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;

(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);

(i) to perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

Service providers.—(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2) A service provider registered under sub-section (1) shall have the power to—

(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

Duties of Government.—The Central Government and every State Government, shall take all measures to ensure that—

(a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;

(b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;

(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;

(d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

Application to Magistrate.—(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall Endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

Service of notice.—(1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

Counselling.—(1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.

(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

Assistance of welfare expert.—In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

Proceedings to be held *in camera*.—If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act *in camera*.

Right to reside in a shared household.—(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to

reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

Protection orders.—The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being *prima facie* satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from—

(a) committing any act of domestic violence;

(b) aiding or abetting in the commission of acts of domestic violence;

(c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;

(d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;

(e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her *stridhan* or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;

(f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;

(g) committing any other act as specified in the protection order.

Residence orders.—(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—

(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b) directing the respondent to remove himself from the shared household;

(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;

(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;

(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require: Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her *stridhan* or any other property or valuable security to which she is entitled to.

Monetary reliefs.—(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,—

(a) the loss of earnings;

- (b) the medical expenses;
- (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and
- (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.
- (2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.
- (3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.
- (4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.
- (5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).
- (6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Custody orders.—Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

Compensation orders.—In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

Power to grant interim and *ex parte* orders.—(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an *ex parte* order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

Court to give copies of order free of cost.—The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

Duration and alteration of orders.—(1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.

(2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

Relief in other suits and legal proceedings.—(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

Jurisdiction.—(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which—

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

Procedure.—(1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

Appeal.—There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

MISCELLANEOUS

Protection Officers and members of service providers to be public servants.—The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Penalty for breach of protection order by respondent.—(1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

(2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.

(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

Cognizance and proof.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.

(2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

Penalty for not discharging duty by Protection Officer.—If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

Cognizance of offence committed by Protection Officer.—No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.

Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

Act not in derogation of any other law.—The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

Power of Central Government to make rules.—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;

(b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8;

(c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;

(d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;

(e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;

- (f) the other duties to be performed by the Protection Officer under clause (i) of sub-section (1) of section 9;
 - (g) the rules regulating registration of service providers under sub-section (1) of section 10;
 - (h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;
 - (i) the means of serving notices under sub-section (1) of section 13;
 - (j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13;
 - (k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14;
 - (l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23;
 - (m) any other matter which has to be, or may be, prescribed.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

CHAPTER V

Discussion and Conclusion

5.1 Discussion

DV and mental health of women is proportional to each other in this study we found various factors present in our society to aggravate or subside the mental stress induced by DV. It is evident that physical health can be cured and gain health by therapeutic intervention but DV has exhibited its presence as psychological and psychosomatic disorders. Several studies published papers that DV primarily effect body and mind but lastly psychosomatic effect on women's health is alarming. Louise M Haward et al (2010)⁹⁴ published report on DV and its outcome is increasing evidence of chronic, severe and often long term evidence of ill mental health in DV care services should respond by increasing efforts to identify, prevent or reduce violence against women. Kimuna SR et al (2013) published a report in journal of interpres violence based on report of Indian National health survey III (NFSH III) 2005-2006 conducted on 69484 married women aged between 15 to 49 from all region of India. The result shows that 31% respondents experienced physical violence in past 12 months before the survey, the corresponding figure for sexual violence was 8.3%.

A study of systematic review and meta-analysis published by Catharine Paddock reported that victims of DV suffered various mental health disorder like depressive disorder were 2.5 times more likely to have been victims of DV (with a prevalence estimated at 45.8%) and anxiety disorders were 3.5 times with a prevalence estimated 27.6%.⁹⁵

PTSD having experienced 7 times more (prevalence estimated 61%) than women with no mental health problems. A health study published by Giulia Ferrari et al (2014) stated that depression and anxiety thresholds process 76% of DV and abuse surfing victims.⁹⁶

Sharma et al (2019) published a report of Delhi community based study that a quarter of women (25.3%) reported unhealthy mental status (>8 score) in 4 week of victims of DV.⁹⁷ Proportionately high percentage of survivors of DV were found amongst those who had suffered hurt / injuries, pain / swelling / bruises, and among those who had consumed poison. Less percentage of women respondents with burns and orthopedic problems reported DV as its cause. Possibly because it is easier 'cover up' burns or an orthopaedic problem 'as an accident' than to

⁹⁴ Louise M Haward et al (2010) Domestic violence and mental health, Int Rev Psychiatry 22:5, 525-534

⁹⁵ Catharin paddock, medical health disorder liked to domestic violence, www.medicalnewstoday.com/article/254475#4

⁹⁶ Giulia Ferrari et al (2014), www.tanfonline.com/loi/zgha20

⁹⁷ Sharma et al mental health effect of Domestic violence against women in Delhi : A community-based study, JFamily Med Prim care 2019 jul; 8(7); 2522-2527

give a credible cover up story for grievous hurt or injury like stab wounds, or for poisoning, or other signs of obvious physical assault, as just an accident.⁹⁸ Hence it is evident that majority of cases of DV still taboo and social stigma in society. The mental status of victims of DV is so devastating that she needs moral, social and judicial protection to curb down significant cases of mental illness.

Various studies conducted in women who experience intimate partner violence (IPV) are at greater risk for developing mental illness than women who are not abused (Carlson, McNutt, Choi, & Rose, 2002; Jones et al., 2001; National Institute of Mental Health, 2000; Roberts, Lawrence, Williams, & Raphael, 1998; Woods, 2005). Although the psychological consequences of abuse can be broad, the most common disorders are depression and/or posttraumatic stress disorder (PTSD) (Marais, de Villiers, Moller, & Stein, 1999; Woods, 2005). Depression is noted in 35% to 70% of IPV victims (Gerlock, 1999; Marais et al., 1999; McCauley et al., 1995; Peterson, Gazmararian, & Clark, 2001; Roberts et al., 1998; Stein & Kennedy, 2001) compared to 12% of women in the general population (National Institute of Mental Health, 2000). Fifty-five to ninety-two percent of IPV survivors experience mild to severe PTSD (Astin, Lawrence, & Foy, 1993; Eisenstat & Bancroft, 1999; Gallop & Everett, 2001; Gorde, Helfrich, & Finlayson, 2004; Humphreys, Lee, Neylan, & Marmar, 2001; Saunders & Kindy, 1993), compared to 10.4% of women in the general population (National Center for Post-Traumatic Stress Disorder, n.d.). The severity of PTSD symptoms has been linked to both the severity and frequency of the abuse (Mayer & Coulter, 2002) and to the presence of depressive symptoms (Stein & Kennedy, 2001) and other conditions (Gerlock, 1999; McCauley et al., 1995; National Institute of Mental Health, 2001). The prevalence of anxiety disorders range from 19% to 54.4% (Gerlock, 1999; McCauley et al., 1995), with another 27% to 36% experiencing phobias (Roberts et al., 1998) in contrast to the general population rates of 10.3% for phobias and 14% for any anxiety disorder (Anxiety Disorders Association of America, 2002). The prevalence of any mental health disorder is estimated at 58.9% (Tolman & Rosen, 2001), more than twice the general population (22.1%; National Institute of Mental Health, 2001).

Despite the association between IPV and mental illness, there are few comparison studies of abused and nonabused women. None of those studies has been conducted with women in the general population. Instead, they use literature reviews with references to nonmatched samples

⁹⁸ <http://hdl.handle.net/10603/58570>

(Jones et al., 2001; Mayer & Coulter, 2002; Russell & Uhlemann, 1994) or are limited to specific primary-based care samples where only one or two factors are considered, such as depression and anxiety (Carlson et al., 2002). The abundance of research describes the mental health characteristics of abused women without the inclusion of population-based comparison or control groups (Constantino, Sekula, Lebish, & Buehner, 2002; Humphreys et al., 2001; Krishnan, Hilbert, & Pase, 2001; Sackett & Saunders, 2001; Stein & Kennedy, 2001; Sutherland, Bybee, & Sullivan, 1998). In addition, study populations are often limited to inpatient psychiatric, primary care, or emergency room patients (Dienemann et al., 2000; Krishnan et al., 2001; Poirier, 2000; Roberts et al., 1998; Scholle, Rost, & Golding, 1998). In these studies, the variable of interest is the presence of abuse among women presenting with mental illness; other variables are not controlled for in establishing the relationship between IPV and mental illness. Furthermore, studies that sample populations of abused women are limited by a focus on abused women residing in shelters (Humphreys et al., 2001; Mohr, 2001; Murphy, 1999), without comparison to the general population.

Helfrich A Christine et al reported a study of women of DV violence shelter that Psychological symptoms were more prevalent among the study participants than the general U.S. population. Most notable was the greater occurrence of sadness or anxiety (77.0%) and major depression during the past 12 months (51.4%) among these women compared to the national averages of 6.1% and 2.4%, respectively. More women (35.1%) reported having phobias and strong fears compared to 4.3% for the general U.S. population. During the past 12 months, 23% of women reported experiencing bipolar disorder and manic depression compared to 0.7% nationally. Also, 14% of women had antisocial, obsessive–compulsive personality, or another severe personality disorder versus 0.6% of all U.S. women. Women in this sample reported experiencing anxiety disorder (32.4%) and PTSD (16.2%). Other mental health disorders that some of the women experienced were schizophrenia (3%) and paranoid or delusional disorder (8%); rates for the general U.S. population were 0.1% and 0.3%, respectively. Although only 4.6% of American women identified themselves as disabled, 35.1% of the study sample identified themselves as disabled. It was also noted that women were not asked, in this question, to identify the nature of their disability.⁹⁹

⁹⁹Helfrich A Christine et al, Mental Health Disorders and Functioning of Women in Domestic Violence Shelters
Journal of Interpersonal Violence Volume 23 Number 4 April 2008 437-453

This study revealed significantly that women victims of DV is severely suffering from mental health symptoms among the society, olds homes, parents house and abused sheltered women than women in not only in India but across the world population. Service providers must have an informed understanding of medical conditions as well as their symptoms and functional implications. By addressing psychological symptoms as a medical condition rather than as a manifestation of personal weakness, staff can effectively recommend appropriate treatment for women that will increase their functioning and the judicial intervention should not end by summarizing the cases, the pending cases is anther catalyst in addition to metal health of womens.

5.2 Conclusion

According to the World Health Organization (WHO) report, among women aged 15-44 years, gender violence accounts for more deaths and disability than cancer, malaria, traffic injuries and war put together (WHO 2005). International summits namely the United Nations conferences on Population and Development in Cairo in 1994, the Declaration on the Elimination of violence Against women, Platform of Action for United Nations in Vienna in 1993 and the Beijing World conference on women in Beijing in 1995 recognize violence against women as a violation of basic human rights, impediment to women's autonomy and adverse repercussion on reproductive health.

Worldwide, women experience many forms of violence to gender extent than men. Women are unequivocally the primary victims of family violence, and the tradition of household privacy has kept this violence against women hidden from scrutiny. Violence of any kind has a serious impact on the economy of a country: because women bear the brunt of DV, they bear the health and psychological burdens as well. Victims of DV are abused inside what should be the most secure environment- their own home. Violence against women is often referred to as gender-based violence. Gender is the term used to denote the social characteristics assigned to men and women, which interact with other factors such as age, religion, nationality, ethnicity, and social background. Gender based violence is therefore violence targeted to women or girls on the basis of their subordinate status in society (Heise et al) Women are vulnerable to different types of violence at different moments in their lives. The life-cycle perspective provides a framework within which to account for the pervasiveness of gender-based violence in the lives of

women and girls. This approach presents the wide spectrum of abuses that women and girls experience throughout their lives, delineating the specific form and scope of violence suffered by girls and women at each stage of the life cycle. Viewed from a life-cycle perspective, there are six basic phases in the lives of women and girls when they are likely to experience gender specific forms of abuse and assault. These are: per birth, infancy, girlhood, adolescence, reproductive age and old age.

The period 1945 to 1962 started with the UN Charter calling for gender equality in Article 3 and 8 which resolved to “achieve international cooperation ...in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion”(Art 1,UN Charter). A landmark proclamation was the Universal Declaration of Human Rights (UDHR) which stated that all human beings are born free and equal in dignity and rights. Women’s organizations were successful in their attempts at establishing the UN Commission on the Status of Women (CSW) and other formal mechanisms for achieving gender equality and advancement of women. Subsequently, the women’s movement of the 1960’s and 1970’s with international support led the United Nations to declare the years 1975 to 1985 as the UN Decade for Women (Thomas & Beasley, 1993). In the year 1979, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was adopted by the General Assembly, For the first time, the convention targeted culture and tradition as influential forces shaping gender roles and family relations. With this unfolded a series of conferences beginning with the conference at Mexico City in the year 1975. In the year 1985, in the conference held at Nairobi, which saw the birth of ‘global feminism’ a consensus was reached that ‘violence against women exists in various forms in everyday life in all societies. Women are beaten, mutilated, burned, sexually abused and raped. Such violence is a major obstacle to the achievement of peace and other objectives of the Decade and should be given special attention. National machinery should be established in order to deal with the question of violence against women within the family and society’. Following this in the year 1989, the UN Commission on the Status of Women in Vienna compiled a mass of DV statistics and analyses by women’s rights activists and published the report ‘Violence against Women in the Family’ which came to the conclusion that “women have been revealed as seriously deprived of basic human rights. Not only are women denied equality with the balance of the world’s population, men, but also they are often denied liberty and dignity, and in many situations suffer

direct violation of their physical and mental autonomy” (Connors, 1989). The Fourth World Conference held at Beijing in 1995 and its Platform for Action asserted women’s rights as human rights and proclaimed that in many cases violence against women occur within the family where the violence is often tolerated. Further, the Platform for Action held that the neglect, physical and sexual abuse and rape of girl children and women by family members and other members of the household, as well as incidents of spousal and non spousal abuse, often go unreported and thus difficult to detect. The Beijing Conference of 1995 brought about a revolutionary change by its recognition of the need to focus on the concept of gender rather than the concept of ‘woman’, calling for a restructuring of the entire society and relations between men and women to ensure gender equality (UN Fourth World Conference on Women Platform for Action, 1995). These gender issues were also integrated in the UN Millennium Development Goals (MDG) which aimed at promoting gender equality and empowering women.¹⁰⁰

A very important question in the wake of DV remedies is that what exactly we are looking for in the process of minimizing their occurrences. Is it so that we want to gather more information about such cases for just expressing our concern over this issue with more accuracy, having facts and figures at hand? Or instead of just raising our voices, we want to clean up the mess with sheer force and determination?

According to a latest report prepared by India’s National Crime Records Bureau (NCRB) study has concluded that DV against women is the fastest growing crime in India. A crime has been recorded against women in every three minutes in India. Every 60 minutes, two women are raped in this country. Every six hours, a young married woman is found beaten to death, burnt or driven to suicide.¹⁰¹ The response to the phenomenon of DV is a typical combination of effort between law enforcement agencies, social service agencies, the courts and corrections/probation agencies. The role of all these has progressed over last few decades, and brought their activities in public view. DV is now being viewed as a public health problem of epidemic proportion all over the world and many public, private and governmental agencies are seen making huge efforts to control it in India. There are several organizations all over the world, government and non-government actively working to fight the problems generated by DV to the human community. In 1983, DV was recognized as a specific criminal offence by the introduction of section 498-A

¹⁰⁰ www.un.org

¹⁰¹ Domestic Violence Statistics. Retrieved from <http://www.domesticviolence.in/category/domestic-violencestatistics> (2009).

into the Indian Penal Code. This section deals with cruelty by a husband or his family members towards a married woman. The Government of India passed a Domestic Violence Bill, 2001, “To protect the rights of women who are victims of violence of any kind occurring within the family and to provide for matters connected therewith or incidental thereto” An act called Protection of Women from Domestic Violence Act, 2005 [DVA, 2005] also has been passed. This Act ensures the reporting of cases of DV against women to a ‘Protection Officer’ who then prepares a Domestic Incident Report to the Magistrate “and forward copies thereof to the officer in charge of the police station within the local limits of the jurisdiction.

Police plays a major role in tackling the DV cases. They need to be sensitized to treat DV cases as seriously as any other crime. Special training to handle DV cases should be imparted to police force. They should be provided with information regarding support network of judiciary, government agencies/departments. Gender training should be made mandatory in the trainings of the police officers. There should be a separate wing of police dealing with women’s issues, attached to all police stations and should be excluded from any other duty. Authorities should take steps to recognize DV as a public health issue. A crisis support cell needs to be established in all major Government and Private Hospitals with a trained medical social worker for provide appropriate services. Training programmes must be organized for health professionals in order to develop their skills to provide basic support for abused people. Documentation on the prevalence and the health consequences of DV should be undertaken by the concerned government departments, health care institutions, NGOs and counselling centers. A nodal agency should also be set up for the annual consolidation of the documented work and publish the same for wider publicity among the masses for increasing awareness. The varying causes which can spark the violence within the four walls of homes need to be analyzed carefully and a wise study of the factors causing the violence may prevent a family to suffer from the menace of DV. The DV may have a far wider and deeper impact in real life than what has been covered in this essay. What is required is to see closely the association of the factors provoking a particular form of DV. If these factors can be controlled then more than one form of violence can be prevented from harming an individual or our society and India would be a much better place to live in. Only the legislation and law enforcement agencies cannot prevent the incident of crime against married women. Social awakening is necessary and change in the attitude of masses, so that they can give due respect and equal status to a married women not only in their family but also in others

family. The awakening can be brought by education, campaign or door to door survey conducted by the Government agencies or NGO 's. Various NGOs can hold a responsible position here by assigning them with the task of highlighting socio-economic causes leading to such crimes and by disseminating information about their catastrophic effect on the womanhood and the society at large. Mass media can also play an active role here as in the present days it has reached every corner of the nation. Intervention and action at multiple levels efforts done so far on gender issue defy basic and simple solutions.

Elimination of all kinds of violence against women requires channelizing simultaneously the attention and efforts of all the concerned people and work together. This sensitive issue needs intervention and action at multiple levels state, society and individuals in public and private capacities. At government level amongst immediate steps, the most important task of government is to arrest continuously deteriorating law and order situation. There should be vigilant policing round the clock both in cities and suburban areas and more women police officers in all police stations. ·Speedy and time-bound justice is needed urgently. Delayed justice emboldens the spirits of criminal-minded elements in society, who take advantage of loopholes in law, and which enables them to escape. Many culprits go off scot-free even after committing a heinous crime. ·Reforming the structure and systems of governmental institutions engaged in the law-making and enforcement tasks are highly desirable, but it may take a longer time. Role of Non-Governmental Institutions/Organizations ·Non-governmental organizations and institutions should conduct series of seminars, workshops meetings at different places on various aspects of violence/oppression against women. They should discuss in depth the gravity, enormity and dangers of continuously deteriorating law and order position, deteriorating human values, self-centered attitude of individuals and alarming rise in bestial acts against women, which makes it very unsafe for women to move freely outside their homes and try to and out remedy for it. Media should bring women issues to public domain in a Media ·Media should bring women issues to public domain in a forceful manner. They can play an important role in spreading awareness. They can provide a platform to speakers and panelists from different leads, eminent personalities responsible for decision-making to share their views and conduct an in-depth study on various gender issues, and view it holistically touching various aspects of the problem. Views of some of the victims of atrocities should also be taken to understand their unpleasant experiences and the manner in which they came over the agonies they suffered because of

inhuman acts. At family's level ·Family is the art and foremost institution, where children learn arts lesson of humanity and social relationships. Family is the best place to inculcate positive values like honesty, simplicity, modesty, sense of responsibility and respect for elders amongst children and youth of both the sexes. Childhood is the most formative, educative and impressionable time in a human's life and most appropriate time for inculcation of such values, as it remains permanently and army embedded in their delicate psyche throughout their life. Training for gender sensitization should be imparted within the family. Right from the beginning, all the children should be treated equally, without any gender-bias. On women' part Instead of silently bearing all the atrocities perpetrated against them, women should raise their voice against injustice; create awareness amongst women about their rights and channelize their efforts by writing articles, organizing seminars, workshops etc. ·Irrespective of their social status in society, they should join hands, and work in a spirit of unity. They should raise their voice boldly against social evils like dowry, bride-burning, female infanticide, etc. Women should exercise utmost vigilance both at the mental and physical level to ensure their safety and security, so that no one could exploit them when placed under adverse circumstances in life. They must always be prepared for self- defiance by getting training in Karate, marshal Art etc.

5.3 Suggestions:

(i) There should be public enlightenment through the mass media on the negative effects of DV against women, especially wife battering;

(ii) Religious leaders too should vigorously teach against marital violence in their places of worship;

(iii) Youths should be encouraged and taught to detest and not imitate brutish treatment of wives around them;

(iv) Medical professionals, after physical or mental treatment should refer the victims to the counsellors, psychiatrists and psychotherapists. The medical examination of victims of DV has also been suggested on the basis of the best practices by global experts in the fields of gynaecology and psychology; such as

- By increasing detection rate in GPs
- Promote General Physicians to detect case of DV victims

(v) Punishment given to grievously offending husbands should be publicized, so that it can serve as deterrent to others;

(vi) The equality of women, being integral to the Constitution, its denial is a sacrilege and a constitutional violation. Sustained constitutional violations mean that governance is not in accordance with the Constitution. A fortiori, all limbs of the State - the executive, the legislature as well as the judiciary - must respect women's rights and must treat them in a non-discriminatory manner;

(vii) As a primary recommendation, all marriages in India (irrespective of the personal laws under which such marriages are solemnized) should mandatorily be registered in the presence of a magistrate, which magistrate will ensure that the marriage has been solemnized without any demand for dowry having been made and that the marriage has taken place with the full and free consent of both partners;

(viii) Available personnel of the judiciary and the infrastructure, with a few systemic changes can, at least, reduce half the burden of arrears in courts contributing to delays in enforcing the law of the land. Different High Courts have the pivotal role in the administration of justice of Article 235 of the Constitution. They have to lead by practice in addition to precept;

(ix) Law enforcement agencies must be insulated from any political or other extraneous influence, which impedes their performance. Law enforcement agencies must be insulated from any political or other extraneous influence, which impedes their performance. Law enforcement agencies must not become tools at the hands of political masters.

Protection of Women from Domestic Violence Act, 2005 ensures the reporting of cases of DV against women to a 'Protection Officer' who then prepares a Domestic Incident Report and send it to the Magistrate and also forward copies thereof to the police officer in charge of the police station within the local limits of the jurisdiction. But in major police stations in India we can see that there was no such 'Protection Officer' who was supposed to registrar a case as per Protection of Women from Domestic Violence Act, 2005. So, for better implementation of the provisions of the said Act, there should be one provision for mandatory appointment of one such officer and the smooth functioning of the same in accordance with the Protection of Women from Domestic Violence Act, 2005.

At present there is no single law in the Indian Constitution which can strictly deal with all the different forms of 'DV' as discussed in this work. There is an urgent need for such a single

law in the country. I also think that there should be one article in our Constitution which protects the violence meted out to a married women in matrimonial home.

There must be one provision either amending the existing provision or inserting new provision in every Family Laws in our country which gives certain safeguards to the married women from DV.

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