
ANALYSING THE UTILITY OF THE DOMESTIC VIOLENCE ACT IN LIGHT OF CONTEMPORARY PANDEMIC

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ABSTRACT

The paper is a compressive review of Domestic violence in this pandemic, including its legal backgrounds and the malfeasance and its Victimization. This paper is focusing on the reason occurrence of it, the problems and the risk factors which is faced by the women in our society. The paper also talks about psychological and physical effects of Domestic Violence. It talks about the Government's point of view regarding it.

The paper is the analysis of the various aspect related to Domestic Violence and taboo in the society regarding it.

INTRODUCTION

If you think to deal with the pandemic was pretty stressful, have a thought of a woman whose plight gets multiplied by the gruesome violence put on from her own husband or relatives.

Domestic violence: Technically, the phrase means, the violence that happens in domestic zones. It is something that not only happens or restricted in a particular community or group. Even the developed Nations is a part of this curse. The current situation is surrounded by the prodigious disaster of coronavirus. In this 21st century no part of globe is untouched with this leprosy. It's quite unfortunate for our human civilization that we are still struggling to provide a safe abode for our ladies. Today the whole world is facing a doomsday stuff called corona pandemic which is expected to be emerged from a Fish Market at Wuhan, China. The first case was reported in the Wuhan province of China and it has spread throughout the world. The novel virus envelope many countries, including developed, non-developed and developing countries. The current situation seems like some Hollywood movie where the whole civilization is moving towards an end. But yes, we have to accept, those fiction may get turn into a spooky reality. Due to this epidemic disease, in order to save their people from the virus, countries have been seen taking major and strict decisions. One of which is the curfew or lockdown.

In India, the first lockdown period started on 23rd March 2020 and it has extended till many phases as of now. When everyone is focusing on how to save themselves and the people around them from this deadly virus, the one problem that is camouflaged under the highlights is the domestic violence.

The other horrifying aspect of this lockdown which has now emerged that is the 'Shadow Pandemic'. The National Commission Of Women¹ says that many of these cases could be as a result of frustration, which is set in and especially among men those are sitting at their houses, not able to go out to their work to other activities which in turn is being taken out on the woman in their houses.

The 'shadow pandemic' first appearance in the lockdown came into notice in a data provided by the National Commission Of Women in the middle of the April. Mainly these complaints came in the form of either email or some Whatsapp number. On one hand, there is an increase

¹ NCW - the statutory body of the Government of India

in the complaint through NCW whereas, on the other hand, there is a decrease in the number of calls at Police Stations.

The reason could be the hesitation of victims in reporting the crime due to their inability to isolate themselves from their Predators. It is very clear that women are very insecure because they are unable to isolate themselves from the person committing the violence over them.

Many neighbours see the violence being carried out but they keep quiet because they don't want to get questioned by police. Although "Section 4 of the Domestic Violence Act, 2005² provides safeguards for the informant". It says that if any person in good faith and with reason to believe that the act that is happening is an act of domestic violence, give information about it to the concerned protection officer, then no liability of civil or criminal nature shall be incurred against that person for giving information of such subject.

Violence sees no gender, but usually, the victims of domestic violence are women. Within 10 days after the first phase of lockdown was declared in India, the helplines for women against violence seek a huge hike in numbers. Women are feeling more misery as they are being abused at home and they cannot go to the police.

Because of the lockdown women are not being able to reach to the police and they do not even want to go to the police because they are afraid that if their husband comes out of the police station after a day or two, again he will torture her and she can't even move out now.

During this mushrooming pandemic, the common directive for everyone is to stay home in order to stay safe, but for many women staying home does not equal to staying safe. Many women are unfortunately trapped with their abusers.

Domestic violence is one of the most common forms of gender based violence that can be done by members of family or household or by intimate partners who might be a former or current partner. According to National crime records Bureau report of 2018, around one third of the crimes against women are registered under cruelty by husband or his relatives.

Not only the virus, but domestic violence rise also spreading to Nations over the globe.

² Act of the Parliament of India enacted to protect women from domestic violence.

According to WHO,³ every 1 in 3 woman experiences physical or sexual violence in their lifetime.

The violence against women and girls (VAWG) has layers of Patriarchy. The violence against them is not a new trend that is emerging during this time, it is happening since the dawn of history, but it sees an increase when disasters like this happens.

Does economic instability during such crisis impact domestic violence?

The prime reason for such behaviour of violence in contemporary time is 'Economic hardship' that people are facing along with their confined living conditions.

A study by Daniel Schneider at UC Berkeley shows that unemployment among men leads to abusive behaviour during the great recession of the 2000s. The study also said that as men felt insecure and tensed, they feel they are out of control over their jobs and financial security so they became more likely to increase control over their romantic partner. Sometimes to the point of abuse.

According to the report of a National Family Health survey of 2015, only 12% of women who have suffered violence from husband have short any form of help.

According to NCW, most of the Complaints came through email to report such incident. This shows women without internet access is at a much higher risk.

According to the UN³ Women report, countries like China and Malaysia have seen off a two-fold and three-fold increase in VAWG⁴ reports and many other countries have also seen the great percentage of it, but these are the percentage that shows the filed complaint, there is also another side of the coin.

In India, where, according to the crime in India report of the Year 2018 states that a woman is subjected to domestic violence every 4.4 minutes and still people overlook it as a private matter.

In the period of lockdown, difficulties may be there in the way of performing duties of

³ United Nations

⁴ Violence against Women and Girls

providing a shelter home. Section 6 of the Act talks about the duties of Providing shelter homes. It says that, if the aggrieved person wants, she herself or any protection officer or service provider on her behalf request the in charge of the shelter home to provide shelter to such person on the order of Magistrate.

The shelter home should definitely be in the area where the jurisdiction of magistrate lies. In the period of lockdown, it is also getting difficult to provide a shelter home for an aggrieved person as there is an order of maintaining social distance and with the directive to stay home.

In the Act, the duties of the magistrate are also given. When the aggrieved person or protection officer or any other person on her behalf present application to the magistrate seeking relief under this act, the magistrate has to give the next date of hearing within two days.

But due to this lockdown and closed Courtrooms, there is a delay in everything. This could be one of the reasons for an increase in numbers of victims of domestic violence as it creates a no fear environment of thoughts in the mind of violent Person.

If after, all the filing of complaints and procedure, still, she wants to live in the shared household, the Act also gives relief for this. Section 17 of the Act says every woman in a domestic relationship shall have the right to reside in the shared household in which she may or may not have any right, title or beneficial interest. No person shall evict or exclude the aggrieved person from the shared household or any part of it.

The big worry for the National Commission of women, is that many of the women, especially in the semi-urban ruler kind of setting that don't know how to operate emails or send message to save themselves by filing a complaint or to seek help, most of these women use to write, and with the Indian post also getting affected, the Railways are not working, the flights are not taking

a post from one place to another many of these complaints that are not coming in and that could also be one reason that they are not getting the larger picture across the country.

Though NCW claims that some women wanted to go back to their parent's house or shift to some hostel, so they moved them. Also in some cases, police have lodged FIR against their husband and they also launched Whatsapp number for the ladies who can't reach online or email them.

The Whatsapp number for a domestic violence complaint is 7217735372.

Awareness is the key. A lot of people cannot take advantage of a person who is aware of their rights. No police officer and service providers can ever take advantage of any aggrieved person if the aggrieved person knows their own Rights and duties of the police officer and service providers.

It is the duty of a police officer and protection officer tell her about her right to write an application to the Magistrate for obtaining relief by way of Protection order or Monetary relief or Custody order or a Residence order. One more important right that can be hidden in such a situation is the right of aggrieved person to get free legal service, that is given under the Legal Service Authority act 1987.

If the situation gets out of the domain of this act, the aggrieved person can also file a complaint under Section 498 an of Indian penal code. But the question is how will awareness come?

What is the way in which a person will get to know about his or her right? Is it normal to think that every person living in the territory of India will know about the rights that are given under the protection of women from domestic violence act, 2005?

It is NOT and here the duty of Government comes into the story. Section 11 of this Act talks about the duties of government and the first clause of this section imposes a duty on government to give wide publicity of the provisions of this act to public media including the television, radio and the print media at regular intervals.

Last but not the least, educating Our men in these matters is of utmost Importance. *Afterall, the kind of seed we sow today, the same kind we going to harvest in the future.*

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