

Domestic Cycle of Violence- Adv. Pragnyasa Swain

Pragnyasa Swain

Advocate, Odisha High Court

ABSTRACT

In our society, mostly women are groomed to agree to the thinking of the Men. Men are made to think their believes are more righteous and holds more value than the women due to the basic difference of role play in the society. In our society, earlier only the men were the bread earners and the women were restricted to the household chores. This major difference gave birth to the deep-rooted patriarchal mindset of India. Though with various amendments, this situation has improved in the society but as certain facts are pushed under the rug and not represented statistically or discovered evidently the fraction of domestic violence that we are shown compared to the reality differs drastically in number. Despite prevailing laws, certain acts of violence have been normalized in families and the women are explained how these actions don't amount to violence as it occurred as a result of the fault of the women. Now the fault of women ranges from the tiniest inconvenience to a major mistake. Irrespective, the violence is justified and neutralized by bringing up the lifestyle of the women when there is no other explanation to rationalize. From a legal perspective, it is not just a crime but also a strategic way of rooting the fear in the mindset of women and normalizing the acts of violence to make it look common. From a societal and moral standpoint, things are made complicated by the various versions of reality and numerous layers of incoherent justifications. This paper will deal with all the prevailing laws regarding domestic violence, its implication and the various gap prevailing in laws regarding domestic abuse.

KEY WORDS- Victim, abuser, victim blaming, domestic violence

INTRODUCTION

Domestic violence in the broadest sense including the social and legal aspect is defined as any form of abuse including physical, sexual, economic and emotional perpetrated by the male members on the female members sharing a household including partner, single woman, widow, sisters, daughters, mothers or women residing with the abuser. Such aggrieved victims of domestic violence are entitled to legal aid under The Protection of Women from Domestic Violence Act, 2005. Perpetrators of such crimes of domestic violence come from all kinds of cultural and socio-economic backgrounds. The offences of domestic violence get more evidently visible in the lower socio-economic class whereas the domestic violence in the upper socio-economic class of the society is more structured and pattern of violence executed with precision where the victims are convinced at the end of the day that the action was a result of their own mistakes. This is also very prevalent amongst the creamy lawyer of the society but being backed up by the capitalism, it becomes less and less visible in those sectors. It was once stated by Karl Marx that "Law is the tool of the ruling class to maintain its powers over the other classes of the society." Therefore, domestic violence among the economically backward classes is more explored and discovered

than the domestic violence prevailing in the economically wealthy classes. Those issues are suppressed in a structured manner. This paper will deal with all the aspects of abuse within the household of the socio-economically privileged classes, legal aspects existing for awareness as well as legal aid of the victims, psychological impacts on the victim as well as the abuser and lastly, the very old victim shaming dimensions among the so called financially stable and well-educated class of people of our society. The motive behind aiming the wealthy sector of the society is to unveil the condition as well as situation of those victims of abuse who are trapped behind fancy doors and placated as well as threatened by monetary power play of their own family members. Irrespective of being educated or not, the problem of abuse and control is inherited by a majority of male including well reputed male members of the society who hide behind their masks of dignity and righteousness.

TYPES OF DOMESTIC ABUSE AND THE VARIOUS LEGAL REMEDIES AVAILABLE AND ACCESSIBLE TO THE VICTIMS

The various types of domestic violence range from physical abuse, psychological abuse, economic abuse, emotional abuse to sexual abuse on the female or children or elders residing in a family. Such forms of abuse are usually perpetrated by any Male member residing in the same household as that of the victim. The nature of relationship between the perpetrator is not restricted to conjugal relationships, it extends to all of the dependent female or children residing in the same household with the perpetrator. In this article, the class of population targeted is socio-economically wealthy class and the types of abuse occurring in the residence of such well-educated families. Violent abuse includes monitoring of the lifestyle of the victims in order to psychologically oppress them along with direct physical abuse, emotional abuse, economic abuse by deprivation of basic necessities and lifestyle from the victim by the perpetrator, direct sexual abuse and neglect of the emotional, technological abuse which includes restriction of movement and communication with the society through deprivation of access to any form of technological gadget as well as psychological as well as physical state of victim. The abusive nature of the perpetrator is usually a result of low self-esteem, jealousy, insecurities, cultural behavior of controlling the partner, learning by growing in an abusive environment where such forms of abuse are accepted and the use of intoxicating substances which aids the violent behavior of the perpetrator. The major issue for the victims of abuse includes the fear of relationships between Individuals as well as the society.

The aggravated form of domestic violence may include choking, mutilation of the female genital, throwing of acid resulting death or permanent disfigurement, stoning, attempt of bride burning or attempt of honor killing. The Home Office of United Kingdom expanded the definition of domestic violence in 2015 by inserting coercive control in its ambit.

Moving forward to the legal remedies available in India for the victims of domestic violence includes several legislations and sanctions regarding varied range of unjust treatment to women and children. The most eminent legislation made regarding the protection of victims of domestic abuse includes the Protection of Women from Domestic Violence Act, 2005.

THE PRTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

Section 3 of the Domestic Violence Act defines domestic violence and who can be termed victim of domestic violence. In India, domestic violence cases can be filed by any aggrieved member of the family

against the Male perpetrator, against whom the aggrieved person has asked relief under this Act. This case can be lodged against any Male perpetrator of the family who reside in the same household as that of the victim. In conjugal cases, the aggrieved person can file against the male perpetrator along with other members of the family that may include the mother-in-law, the father-in-law, the brother or sister-in-law as well. (Development, 26 October 2006)

INDIAN PENAL CODE

“Section- 498 A” includes the punishment for cruelty on the wife by the husband or/and the family members of the husband. The ambit of this section expands to a wider interpretation. This section terms any form of harassment of the victim including the demand of dowry or any other form of abuse. Though, marital rape has not been criminalized yet, forceful sex in a marriage on the victim by the husband will amount to cruelty under the ambit of this section.

“Section- 304 B IPC” decries the various forms of domestic abuse including emotional, psychological and mental harassment for demand of dowry or shaming for dowry. The death of the victim caused as a result of demand of dowry irrespective of physical abuse also accounts to a crime of domestic violence under this section.

Further, “Section 313-316 IPC” criminalizes female infanticide along with forceful impregnation of a Woman or girl.

Along with that “Section 305 and 306 IPC” deals with offences that will amount to abetment of suicide of the victim of domestic abuse. Additionally, “section- 340 and 349 IPC” punishes wrongful confinement and wrongful restraint of any individual especially the female victims of domestic abuse. These are a few legal remedies that are available in the criminal law to combat domestic violence along with the additional precautionary provisions of the Domestic Violence Act, 2005. The major problem prevailing amongst the class of victims of domestic abuse is the lack of awareness about the existing laws for their relief and remedy. Our society is still a patriarchal society and the women are usually directed and groomed to believe that certain things are correct and certain things are wrong. These right and wrong is usually implanted in the mind of the victim by the abuser at a very early stage of abuse. Victims of domestic violence believe they have been abused as a result of their own mistakes and faults. The definition of wrong and right for the victim is the same definition that is given and nurtured by the abuser. Usually, such domestic violence victims lack the basic knowledge to differentiate between legal and illegal or normal and abnormal as a result of the abusive environment that they have been confined to. Therefore, they do not view the abuse as a form of violence rather a consequence of their own actions. It is a sheer necessity to bring clarity in the society about the fact that no matter how minor or unpleasant someone’s mistake is, it does not give any kind of right to any other Individual to be violent or physically abusive towards the guilty person. No citizen is vested with any form of right to take laws into their hands and thus, someone committing a mistake or crime should be confronted and brought to the knowledge of the department of law and police department rather than being physically, mentally, emotionally, verbally, economically or psychologically abused or harassed as a form of retribution. (Macaulay, 6 October 1860)

There are several other legislations as well which combat the different types of abuse that occurs within a family or domestic relationship. A few of such legislations are enlisted as follows-

DOWRY PROHIBITION ACT

This Act was enacted on 1st May in the year 1961 to combat one of the deep-rooted evils of the society called dowry. It was observed that there was a rampant increase in the cases of demand of dowry followed by dowry deaths that resulted in the enactment of the Dowry Prohibition Act. This act has undergone several amendments over time to meet the various requirements of the society. In the early 1800s, wife beating was viewed as a right entitled to the husband as a virtue of marriage to have a control over the resources of wife. Around 1970s, women started raising their voice against the domestic abuse that they were subjected to and finally in the year 1994, the US Congress passed the Violence against Women Act which shaped the issue of domestic violence around the globe. This act has aided in criminalizing the demand of dowry. Several insertions have been made regarding violence, cruelty and abuse victims in the Indian Penal Code after the establishment of the rising number of domestic abuse victims in the country. (DEVELOPMENT, Act No. 28 of 1961)

THE CHILD LABOR (PROHIBITION AND REGULATION) ACT

This act aims to eradicate all types of child abuse in form of employment and prohibits the engagement of children in any hazardous occupation. This act helps to limit the physical abuse done in the form of labor. This aspect is viewed from the perspective of domestic violence. In our society, it is evident in financially wealthy families to employ young girl children from poor socio-economic background as house help and domestic servitude, where they are usually segregated from their families and are restricted to the household. These young children fall prey to physical abuse, psychological abuse, emotional and at worse, sexual abuse in certain households. Such children are detached from their biological families and put in a different family at a very young age and being placed in an unfamiliar environment, any child will be psychologically and emotionally vulnerable. Such vulnerable children victims fail to realize that they are being abused in form of labor and serve as an obligation unaware about their own rights. Such situations are very prevalent in India and victims of such form of abuse are statistically mainly girl children. This Act prohibits the employment of children below 14 years of age in varied listed occupations and provides guidelines to assure the presence of any one parent with the child while being engaged in any non-hazardous occupation with restricted hours of work, proper child friendly conditions along with mandatory hours of education. Such victims are provided with food, shelter and clothing in return of the domestic abuse they are subjected to by the perpetrators belonging to wealthy families. Thus, without any child being employed into a hostile environment, the chances of such children being the victims of domestic abuse also reduces. (Employment, ACT 61 OF 1986.)

PSYCHOLOGICAL IMPACT ON VICTIM AND ABUSER

In India, the females are groomed from the childhood to serve their parents then husband and lastly their children. In this societal structure, the victims of abuse usually conceive the notion of the abuse being a result of their own actions or mistakes. Irrespective of being subjected to violence and cruelty, it is usually seen that the victims receive the abuse to be a punishment for their own fault and rationalize the situation without speaking about it to others. This is where the victims are psychologically controlled by the fear of abuse. They are restricted to associate with others, go out and interact with other people as a result of which, these victims are doomed to go through such forms of abuse without anyone even being remotely aware about it.

Narrowing the psychological aspect to the victim, studies show that most of the victims who have faced any form of domestic violence do not speak about it or against it. The victims of domestic abuse are usually housewives, young girl children, daughters, females employed as house help etc. It is evident and most prominently visible that women are the most vulnerable group of the society prone to domestic violence. Such victims are mostly financially dependent on the abuser for survival. And such victims reside in the same household as that of the abuser which makes it more and more difficult for the victim to look past it. Victims of domestic abuse are coached in a manner where they are made to believe that, the abuse they are subjected to is a result of their own actions. This makes the victim live in a constant state of fear and they try to fathom where they go wrong to deserve being subjected to abuse. Over the years, domestic violence perpetrated by the bread earner of the family has been normalized by the society in such a way that the victims feel they deserve the abuse and the perpetrator feels they have the right to abuse. (NCW, 2020-2021)

Additionally, abusers feel obliged to be violent with the victims as they feel it is a part of their right to control the resources of the victim and mold their lives as well. When an abuser is in control of all the monetary resources of a household, all the other members inevitably become dependent on the abuser. Without basic legal knowledge, the victims of abuse are mostly unaware about their rights and do not consider the various forms of abuse as a criminal act. Thus, the abuser continues to control the thoughts, the freedom of speech as well as the freedom of movement in the name of safety.

Furthermore, the mindset of a habitual abuser post perpetration of any form of abuse will majorly never be remorseful. This is backed up by the discovery of the psychoanalytical school of crime causation by Sigmund Freud.

According to Freud there are five defense mechanisms in every individual. First stage of defense is called denial, this is where an individual rejects to real time situation. The second stage is called repression, it is the situation where an individual undergoing tremendous amount of trauma of any form chooses to suppress it by pretending like nothing happened. These prolonged suppressed emotions shape into ugly outbursts later. The third stage is called rationalization, it is when an individual tries to make sense of their actions irrespective of how practically irrational it may seem to the society. The fourth stage is called as reaction formation, it when an individual forms an equal or opposite reaction towards a particular unjust or unpleasant experience. And the last stage of defense is called projection, it when the individual having prolonged suppressed emotional turmoil has developed a certain reaction over time and end up projecting those reactions in some form of violence. These five stages of defense mechanism explain how any individual after committing a crime or facing an adverse situation will act. Similarly, the perpetrators of domestic abuse are also backed up by mechanism of self-defense as a result of which, the abusers fail to accept their actions as wrongful and enter the state of denial by rationalizing it with the petty flaws of the victim to justify the situation. This is a very common phenomenon of self-defense in all social beings. Additionally, the victims of abuse also form a self-defense mechanism of rationalizing the situation and repressing the abuse faced by pretending to be normal. All victims of domestic abuse end up repressing their emotions at one point in order to sustain sanely with the perpetrator. This repression leads to psychological reaction formation by the victims and that results in projection of violence by many victims of domestic violence. It is proved through contemporary studies that majority of domestic violence victims

being abused in various forms over time end up attacking their abuser in due course of time. This proves that the five stages of defense mechanism propounded by Sigmund Freud fits the various psychological aspects of both the abuser as well as the victims of domestic abuse. (Freud, 1894, 1896)

IMPACT ON MENTAL HEALTH AND PSYCHOLOGY OF VICTIMS OF REGULAR STRUCTURED VIOLENCE

It is customarily known that no habitual abuser admits that the violence perpetrated by them is unjust and unfair. It is the psychology of an abuser to deny and rationalize the whole situation in a manner which will justify the act of violence no matter how irrational it may seem to the society. These psychological aspects are usually confined between the victim and the perpetrator as a result of which, the victims succumb to the situation and fail to speak about or against it.

The major dilemma in these situations is that all kinds of such abuse take place behind closed walls leading to no witness, no evidence and no concrete substance to establish the guilt of the perpetrator. In cases of physical abuse, it is comparatively easier to establish the guilt of the abuser, if the physical bruises and injuries inflicted are subjected to medical supervision as they are substantial evidence of proving the abuse of the perpetrator but if those physical bruises and injuries are suppressed and not treated, they heal over time erasing the most prominent evidence of the violence. Similarly, psychological abuse, emotional abuse or economic abuse becomes a very volatile subject to prove. As there are no witnesses and no physical evidence of any form of abuse, the victims of psychological and emotional abuse eventually end up fighting it and accept the abuse as a part of their fate. Very Seldom, there will be victims of domestic violence found speaking about it. Most victims are either restricted to the households, controlled psychologically to not associate with other members of the society or hidden within their limitations out of shame and misery. (Ministry, 2018)

Landing the discussion of domestic violence victims in the capitalist sector of the society, it becomes very abstract to draw conclusions as a result of the translucency of situation that prevails. The well-groomed and educated section of people in our society are the one section of people who are respected and looked upon by the society. But not all families falling in this ambit get to enjoy the luxury of a normal abuse free life. Housewives, unmarried daughters, young children, senior parents belonging to rich and educated families with the perpetrator being the financial source of the household makes it difficult for such victims residing and surviving with the perpetrator to resist or retaliate in any form. Such families are appreciated and well respected in the society as a result of the pseudo image that is put up by the wealthy and educated abusers to represent the environment of the family normal and desirable. Victims of such family are mostly dependent both financially, emotionally and psychologically on the perpetrator residing in the same household, as a result of which the victims tend to rationalize the situation. Simultaneously, the perpetrators tend to blame the victim for numerous causes to explain his reaction and conclusively, the victims resent and blame themselves for being subjected to such form of violence. These victims of domestic abuse who fake their lifestyle in the society because of the reputation of the family are also in a constant state of psychological and mental fear of doing any menial thing undesirable that might end up disappointing the perpetrator which will lead to them being subjected to varied forms of domestic abuse. Such structured and organized abuse rationalized and normalized over time becomes a lifestyle. It later grows as a habit for the abuser to precipitate abuse and the victims are groomed to take it as they depend

for survival on the perpetrator. These abusive instances being repeated periodically in any household over time will become a part of their lifestyle and continue to prevail from generation and generation without anyone even having any slightest idea about it. Young children victims exposed to such abusive environment grow to learn the same actions and repeat it normalizing the whole situation, just the exact way they experienced it and abuse still remains inside the closet without leaving the four walls of the house. (BMC, 2001 to 2018)

THE CHANGE OF SOCIETAL PERSPECTIVE AND ERADICATION OF VICTIM SHAMING IN ABUSE CASES

A study was done by Melvin Lerner in 1996 about victim blaming. He summarized his finding in his theoretical work of monograph called “The Belief in a Just World: A Fundamental Delusion” in 1980. It showed that if a person is suffering in front of viewers who have the means and access to help them, they will choose to provide all sorts of help. But if the same group of people will be subjected to watch a victim suffering in helpless state without any means or access to help them, they will tend to rationalize it by blaming the victim and defending the suffering. This is done by the viewers to retain their own sanity from viewing the suffering of the victim. People rationalize their own theories to not accept the reality of injustice and to deny that people suffer without apparent cause. Additionally, people hypnotize on the belief of a just world and eliminate situations that threatens their belief. This change in perspective only occurs when the people subjected to see the suffering of a victim are deprived from means and opportunities to help that victim. Similarly, in cases of domestic violence the viewers of the abuse are usually outsiders who are helpless and stand in no position to intervene in family abuse as a result of which they end up blaming the victim for being subjected to the domestic violence. This perspective has to be reformed in order to resist the rampant blooming of the varied forms of domestic violence. The victims of abuse belonging from rich families eventually settle down weighing the lifestyle in which they are kept with the amount of abuse they are subjected to and never raise their concerns.

The concept of victim blaming comes from a culture of “Might is Right” where the aggressor is more powerful, the victim is blamed for their own mistreatment. The concept of victim blaming provides a sense of reassurance to the perpetrators and viewers of abuse about the world not requiring any change as the victim chooses to be subjected to the abuse. Most victims of domestic abuse of any form usually get stuck in the grave confusion of moral obligation and practical opportunity. The victims of abuse are under constant pressure of mitigating damages tolerating with consent. They fail to recognize the appropriate practical opportunity to escape or speak about it as they undergo the phenomenon of self blaming and try to fix the domestic relationship by making changes to their own lifestyle to not disappoint the perpetrator. Additionally, as the abuse has been normalized in our society within families, victims prefer to be subjected to structured regular abuse rather than taking any legal or social aid to confront the situation. (NCRB, 2018)

The concept of abuse should be prevented from being normalized by spreading awareness about the legal remedies and legal aid available in the legislation amidst the rural as well as the urban sector. The fact that abuse of any form within the family is a criminal offence should be intensified to an extent where the victims of any form of abuse do not bear second thoughts regarding their victimization even in domestic relationships. The withdrawal of expression of thoughts and feelings of the victims empowers abusers to

continue their actions without any remorse. Despite several prevailing legislations, the victims of abuse in our country limit themselves to the medieval and backward thinking of being obliged to the perpetrator. The reason behind this remains the financial, emotional, mental and psychological dependency on the perpetrator.

Therefore, the sociologists, paralegal and social activists of the society should create an awareness about not normalizing any form of abuse within the family on any member not restricted to wife and may include young children, harassed teenagers, unmarried daughters, single sisters and senior members of the family. This may also include the hired domestic help who are dependent on the abuser and living under the same household as that of the perpetrator. The domestic violence laws and legislations preponderating in the society should address the needs of all the victims of domestic violence irrespective of their nature of relationship with the perpetrator and shall be proffered with the appropriate remedy. (Gateway, 2021)

As the saying goes that every coin has its two sides, so does the coin of domestic violence. The actual victims of such abuse are hidden behind closed doors in reality whereas the other privileged part of the society use these predominant laws of rescuing victims to frame and fabricate innocent people. In a substantial amount of registered DV cases, only a few make it to the trial where the actual victim gets relief after a prolonged suffering of abuse by the perpetrator, secondary victimization by the criminal justice system and stigmatization by the society. The other registered cases either lack proper evidence to proceed or turn out to be fabricated in the course of investigation. But irrespective of such instances, there are abundant victims of diversified forms of domestic abuse who are in necessity of legislations, penalties and regulations to overcome violence and restrain it.

CONCLUSION

The cycle of domestic violence is a systematic, structured and organized form of violence that is precisely executed. The eminent American psychologist named Lenore E. Walker was the esteemed lady to present the model representing the cycle of abuse. She was the founder of the domestic violence institute. She also was included in the Colorado hall of Fame for her book named Battered Woman published in the year 1979. This cycle of abuse as explained by Lenore E. Walker involves four phases. The first phase is a buildup to abuse by creating rise in stress and frustration as a result of any minor inconvenience followed by incidents of domestic abuse that may include physical, mental, psychological, financial, sexual, emotional and economic. The second phase is called as the stage of reconciliation. In this phase, the abuser acts remorseful, kind and loving by expressing their apologies and placates the victims. This third stage is the cooling phase, where there is a period of calm and tranquil environment in which the victim becomes hopeful about the change of situations in future. The last stage is the reiteration where the abuser again builds up stressful and chaotic environment till the act of domestic violence ensues. The theory of abuse involves a power-control relationship which enables the gain of power and maintenance of control over the victim. This theory resembles the theory of cost-benefit proposed by Bancroft as the abusers reward the victims when they obey and follow their abuser or else, they are subjected to domestic violence as a form of punishment for disappointing the abuser. Backed by evidence, abusers seek complete control over victims and tend to use varied ways to accomplish this including physical violence or coercion in any form. The abusers in need of power and control attempt to control the various aspects of the life of victim including their personal, professional, financial and social decisions. This power and control notion construed the Duluth Domestic Abuse Intervention Project which reflected the control and power wheel

for illustration with the power and control located at the center was surrounded by spokes which involved coercion, threats, emotional abuse, minimizing access of the victim, isolating the victim, denial, victim blaming using children and economic abuse of privileges. There have been other developments such as the non-subordination theory which explains the use of gender difference to precipitate power imbalance, the social stress including family disturbance and financial instability, the learning theory where the abuser learns the abusive behavior being exposed to such abusive environment at initial childhood days, the power and control play where the perpetrator is in a sheer need of control over the life of the victim, the customary traditions which includes normalizing the acts of domestic violence, substance abuse which makes the abuser take erratic and irrational decisions and lastly plausible link with animal abuse or similar abusive traumatic experiences. (Lenore E. Walker)

Therefore, there should be adequate attempts to eradicate the notion of domestic violence by accessing the effectiveness of the several legislations and laws that are being implemented for the prevention and prohibition of domestic abuse. Further, there should be more encouragement of decisions victims of leaving the toxic and abusive environment. There should be domestic violence shelters with proper security backed up by the law enforcement in order to assure the safety of runaway domestic violence victims. Along with the existing NGOS, there should be proper schemed shelters for such domestic violence victims sponsored and instituted by the central and state government. In addition to that, the victims of abuse should be given a sense of security, medical treatment and legal aid to sustain further. The victims of abuse are distorted, confused, scared, isolated and stigmatized individuals who blame themselves for being subjected to abuse, therefore proper strategies of providing the victims with moral support, shelter and food will be the best initiative to start with by approaching and encouraging the victims to get of the abusive environment into a safe environment. It may be followed by legal aid and other legal remedies to battle further against their perpetrators. But the fact that the victims will be knowing of a place where they will have roof over their head and food provided, they will find more courage to deny staying being abused. These shelters can cater to number of domestic violence victims by providing them group therapy, counselling and a calm, abuse-free environment so that they stabilize their mind, get advice from counsellors along with medical practitioners and decide to take further legal aid against the domestic violence. Conclusively, the term domestic violence is an umbrella term including disparate forms of abuse and innumerable victims of it. There should be more monitoring of the implementation of the enacted legislations and penalties so that they do not remain limited to theory. The victims of abuse should be rescued, encouraged to move away from such abusive environment and rehabilitated so that they can gain clarity of perspective to decide and battle against the domestic violence.

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