

Unseen Bruises - Unraveling the truth of Domestic Violence

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Abstract— ‘HOME’, a word which can sum up our entire world, a certain place which is supposedly intended to make us feel safe, but what if it doesn’t? Violence in any form is entirely despicable and repugnant but much worse when it happens to an innocent woman who misconstrues it to be love. Domestic violence is REAL. As per 2011 census, the percentage of people residing in urban areas in India is 31.16%, rest is a rural sector. Majority of times, such misogynistic mind set of a man having power over a woman or he having every right to hit her can be more prevalent in the rural areas compared to the urban ones. This can in turn encourage domestic violence and it is about time we stand together and eradicate it entirely from our country. We need to know that there can be a soul victimized, mentally ruptured and torn, for not everything is supposed to be ‘happy’ behind those ‘happy homes’. This research article elucidates the nature of domestic violence, India’s efforts to eradicate domestic violence, changes needed and expected outcome.

Index Terms— Domestic violence, harassment, domestic violence in rural India, misogynistic mind set, victimization

I. INTRODUCTION

Crimes against women in any form have been committed since ages. Prejudice, inferiority, biased attitude towards women is nothing new to Indian culture. Majority of the Indian stereotypes and orthodox conceptions degrade women in various ways and you may also sense enormous hints in them, of how they find women incompetent compared to men. These stereotypes, for many, can be ‘values’ to be passed on to future generations but can be serious encouragement to the perpetrators. Domestic Violence additionally sends about a message in the society that it is acceptable for a woman to tolerate the dominance of her husband through physical abuse and hence it needs to stop! In this article, the background of domestic violence, factors that encourage domestic violence, India’s efforts to curb domestic violence, acts or laws related to domestic violence and reforms needed in them for the betterment will be discussed.

II. BACKGROUND NOTE

Indian ethics and values have always stressed on the fact on how important is it to worship the mighty goddesses known to us. Ironically, the same respect abruptly vanishes when it comes to the women in our own homes. As mentioned previously, this article will focus more on rural India, so the researcher would like to highlight certain key factors that stimulate domestic violence. Firstly, the literacy rate in such areas is comparatively low; therefore there are high chances

that many illogical stereotypes will be encouraged which in turn encourage violence. Poverty can also be one of the major root causes of this issue. Majority of people in rural areas are farmers or daily wage labourers and sadly many times they face financial crisis. In such conditions, if at all they have a girl child, they marry her off at a very young age. This increases chances of her future exposure to domestic violence, getting beaten up for unpaid dowry, being tortured by her husband if he is under alcoholic influence, or being tortured for giving birth to a female child since women are blamed for the gender of the child when reality is otherwise.

III. CASES AND FACTS

Case 1- A father-in-law said his daughter-in-law was dead, when she had actually been locked up in a dark lumber room at the top of the house. At midnight, her mother-in-law would give her a small piece of bread and a cup of water. One day, a cricket ball fell into the room and the children trying to retrieve it saw the dreadful figure of the woman. They told their parents that they had seen a female goblin. Their parents complained about it at the police-station. A young police officer attacked the house suddenly and released the young girl. She stayed at Manaswini shelter home for a year. She earns her living now, but is very weak and has very poor eyesight due to continuous weeping.

Case 2- A newly-married and pregnant daughter sent a letter to her father requesting him to send the promised dowry amount of Rs.15, 000/- which had not been given and also the gift for her first pregnancy. Her father could not manage the amount and one day the girl was found dead in the garbage tank behind the house. Her elder sister, who is married, said that her sister's husband and other members of his family had tied her hands, legs and mouth, had given her electric shocks and had thrown her body into the tank. Her father registered a complaint with the police, saying that their daughter had been murdered by her husband for money. But the police registered the case as a suicide.

Case 3- A man beat his 32-year-old wife to death with a rolling pin in front of their four children in East Delhi’s Harsh Vihar on Sunday afternoon after a domestic quarrel, the police said on Monday. The suspect, aged 35, escaped from the scene after the murder. Around 8 am on Sunday, the couple quarreled again. “He wanted to go out and buy alcohol. But his wife refused to give him any money. So he accused her of having an affair with some body and began beating her up,” the officer said. He then picked up the rolling pin from the kitchen and beat her. “Once she fell unconscious, he banged her head against the wall, picked up some money from the safe and escaped,” said the officer. The four children

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tried to intervene, but were allegedly pushed away. "The children stayed with the woman's body from 8am to 1pm. When she didn't respond, one of them walked to their grandmother's home and called her," The officer said. The police were informed and they moved the body to the Hospital. "We have registered a case of murder and are searching for her husband," said the police.

Case 4- A 27-year-old woman was allegedly beaten to death by her drunken husband in Tammenahalli Palya, Bengaluru Rural district, on Monday night. The victim and the accused of Holenarasipura in Hassan district got married two years ago. While the victim was working as a cleaner in a hotel, her husband worked in a factory. According to preliminary investigations, the husband is an alcoholic, and the couple fought over this daily. On one Monday night, the duo fought over the issue. He assaulted her and when she objected, he thrashed her severely with a wooden log. He later slept in another room. On Tuesday morning, he knowing that she would be angry at him, and assuming her to be asleep, he left for work. In the afternoon, one of her relatives visited the house and tried to wake her up. As there was no response, she alerted her neighbors and the husband. The Madanayakanahalli police rushed to the spot and investigated. During the investigation, the accused (husband) confessed to having assaulted his wife but said he didn't have intentions to kill her. The police have detained the accused, and further investigating is on.

Case 5- A woman was allegedly beaten to death on Wednesday by her in-laws in Budhana town over dowry, police said. They said the woman's husband has been arrested, while other accused members of his family are absconding. According to the FIR lodged by the victim's father, her in-laws had been harassing her for more dowry and they allegedly beat her to death on Wednesday. The victim's family staged a protest by keeping her body outside the SSP office, demanding strict action against the accused. They dispersed after the police spoke to them and assured action. The body has been sent for post mortem, police said, adding they are searching for the remaining accused.

IV. CURBING DOMESTIC VIOLENCE

Considering various loopholes in the system we can't deny the fact that India has put its best foot forward to stop domestic violence. The Government of India has committed to eliminate violence against women and girls through numerous policies, laws, and programs. Through Do Kadam: Barabari ki Ore (In Step: Towards Equality), the Council and its partners are generating a greater understanding of violence against women and girls, developing and evaluating programs to prevent it, and assessing the effectiveness of services provided by a government-run helpline, crisis centres, and shelters for women who have experienced violence.

In 2005, India passed the Protection of Women from Domestic Violence Act (PWDVA), which provides civil remedies and access to justice for victims of domestic violence. Unlike previous legislation, civil remedies now included monetary compensation. In order to fight for effective implementation of PWDVA provisions, the Lawyers Collective Women's Rights Initiative (LCWRI) trained

criminal justice professionals, raised awareness among Indian women, and offered legal aid to those facing domestic violence. Indian women's groups have also demanded a review of Indian women's legal protections. In response, India established the National Commission for Women (NCW) in 1992 to examine the provisions protecting women's rights in the Constitution and existing laws, and to provide recommendations to address gaps in these statutes. In keeping with its mandate, the NCW reviewed complaints and acted on cases to ensure speedy justice.

V. REFORMATORY SUGGESTIONS

There are certain laws amended to help curb domestic violence in India. The earliest law was the Dowry Prohibition Act 1961 which made the act of giving and receiving dowry a crime. In an effort to bolster the 1961 law, two new sections, Section 498A and Section 304B were introduced into the Indian Penal Code in 1983 and 1986. The most recent legislation is the Protection of Women from Domestic Violence Act (PWDVA) 2005.

The following are the two sections related to domestic violence and dowry:

Section 498A in the Indian Penal Code

376 [498A]. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to a fine.

Explanation- For the purpose of this section, "cruelty" means:

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

(b) Harassment of the woman 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.

Section 304B in the Indian Penal Code

1[304B]: Dowry death-

(a) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. Explanation- For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(b) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

The recent act that came into picture after the amendment of the above acts is The Protection of Women from Domestic Violence Act 2005 which seems to be more briefed and

increases scope for protection of victimized women. It is also important to know that this act is primarily meant for protection orders and not for criminal enforcement.

The Protection of Women from Domestic Violence Act 2005 is different from the provision of the Penal Code - section 498A of the Indian Penal Code- in that it provides a broader definition of domestic violence. As the researcher went through the various sections of the act, it was observed that some acts need to include more aspects to safeguard women.

Section 11 (a) of the Protection of Women against Domestic Violence Acts

States the 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.

According to the researcher, social media too shall be included in the above case. Today, majority of the population is active on various social media platforms and such platforms can prove to be a big boon to publicize almost everything in the near future. Inclusion of social media for the purpose of creating awareness shall be included in the scope of the act. Awareness shall be specifically made among the masses about the protection officers since many, even today, are unaware of the fact that protection officers are provided to assist and protect the victim. Many victims refrain from filing a complaint thinking that they are alone in this battle and that, they will receive no support. Therefore, provisions shall be made to widely publicize the above fact among the masses. Inclusion of the same as a sub section in the above section shall be given a thought.

Section 19 in The Protection of Women from Domestic Violence Act, 2005

The Residence orders include-

(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 of 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.

The researcher suggests, any inconvenience caused by the family members/ relatives/ friends of the respondent to the aggrieved person during her period of sharing the household, shall be punished. If the family members of the respondent torture, threaten, abuse, disrespect the presence of the aggrieved person, then they shall be held liable and punished or fined for the same. Inclusion of the same as a sub section in the above section shall be given a thought.

Section 18 in the Protection of Women from Domestic Violence Act, 2005

Protection orders states- 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 favor 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 dependents, 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.

The researcher's review suggests that, the above section may also include threatening by the respondent or any person instigated by him via any source including phone calls or social media and hereby traumatizing the aggrieved person shall be condemned. Such act of the respondent shall be punished. Inclusion of the same as a sub section in the above section shall be given a thought.

Section 20 in the Protection of Women from Domestic Violence Act, 2005

20. States 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 is 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.

The researcher suggests that, the above section may also include the liability of the respondent to pay the educational cost of the child entirely or partly as wished by the aggrieved person. If the child wishes to terminate the funding by the respondent in future, he/ she shall be allowed to do so.

Section 33 in The Protection of Women from Domestic Violence Act, 2005

Section 33 states, 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 a fine up to twenty thousand rupees, or with both.

The researcher suggests that, the above section may also include punishment for a Protection Officer who deliberately tries to manipulate the aggrieved person for withdrawing her case, comes under the influence of the respondent or does anything that threatens the security of the aggrieved person on purpose. The Protection Officer shall be thereby punished with imprisonment or be fined for the act, or both.

Further, the researcher suggests the following acts that shall be included in the scope of the Protection of Women from Domestic Violence Act, 2005:

Actions to be taken during unforeseen circumstances: In cases of pandemic that may result into nationwide lockdown, the possibility of elevation in such cases must be considered and in the wake of such unforeseen circumstances, special helplines for the aggrieved facing domestic violence must be established. These helplines shall associate the aggrieved person to an officer who can assist her in case she finds it difficult to lodge a complaint via online methods or the officer can lodge the complaint on behalf of the aggrieved person. Spreading awareness of such helplines through various forms of electronic media, print media, and social media shall be mandatory. Inclusion of the same as a section in the above act shall be given a thought.

Section related to domestic violence that can be criminally enforced and be added in the Indian Penal Code:

Penalty for not discharging duty by police officer: If any police officer fails or refuses to discharge his duties, accepts bribe from the respondent or his family, refuses to lodge a complaint, manifests signs of irresponsibility in lodging a complaint or in handling the case shall be suspended or be dismissed or be fined for the same.

In case, the above section is included in the Indian Penal Code then certain changes can also be made in a section of the Protection of Women from Domestic Violence Act, 2005.

The Central Government and every state government shall take measures to ensure that the police officers are specifically informed about the actions that can be taken against them in case they don't discharge their duties responsibly and honestly.

Certain sections of the Protection of Women from Domestic Violence Act 2005 could be included under the Indian Penal Code. The civil section too, shall also be provided with a special department of police officers so that they can carry out thorough investigation in such cases.

VI. IMPLICATION OF SUGGESTED REFORMS

Amendment or inclusion of the above reforms in the various sections of Protection of Women from Domestic Violence Act, 2005 can prove to be beneficial for women and may introduce a much wider scope for their justice. Many

sections of the act need to be criminalized as domestic violence does not get a wide scope in the Indian Penal Code. Section 498A and Section 304B also need refurbishing and some sections from This may send a consequential message in the society that is ‘not okay’ to hit a woman and that no man in our country gets a supposed consent from a woman to hit, kill, humiliate or abuse her just because she is married to him.

VII. CONCLUSION

Through this study, the researcher reckons that India still has a long way to go so as to totally curb domestic violence against women. Many changes are yet to be made and more stringent laws shall be enforced. In this generation, people won't necessarily pay heed to their neighbor's house, hence they shall be made aware of their responsibility and dial that one number if they suspect domestic violence, even if the victim resists. Therefore, it is about time we raise our voice, and get rid of all the excuses and notice those unseen bruises.

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