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## A STUDY OF MATRIMONIAL HOUSES AGAINST WOMEN IN DOMESTIC VIOLENCE

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### ABSTRACT

*“There is nothing in the world like the devotion of a married woman. It is a thing no married man knows about”,* quotes by OSCAR WILDE. Women struggled for equality, liberty, and dignity from birth to death during the past centuries. Nowadays, most of the women are educated, so they started to throw back men and stand independent. Consequently, there are more divorces among the current generation. Early phases of torture for women: she lives in a joint family, so every member of her matrimonial home starts to exert physical and mental pressure on her. As of now, even in the case of nuclear families, they give torture through the media. Violence against women in all religions and caste societies, to a greater or lesser degree, includes physical, sexual, psychological, economic, and neglect abuses. Violence against women starts at home. In the ways of preventing women's freedom in order to achieve their goals and passions, but simply dumping them to do household work by taking care of children. During this journey, the women face a lot of abuse and torture. Cooking, raising the children, etc. in the home should be the duty of both men and women, but not only for women. Along with that, she has to bear the torture from her in-laws parents. That doesn't mean women should do all this instead of searching for what they want in their lives. In the 21st century, due to economic needs, women started to work equally like men. Now, women are finding it more difficult to handle both the family and the workplace. Increasing divorce rates are because women are starting to raise their voices to prevent domestic violence, but it still exists.

**Keywords:** Discrimination , Slavery, Harassment, dowry, domestic violence,

**INTRODUCTION:**

*“In many of the stories, Husbands who don't stand up for their wife often end up destroying their marriages”* quotes by VEENA VENUGOPAL. Marriage is the bonding between two souls who should travel throughout their lifetime out of love and trust but not by the way of women slavery. Women face a lot of issues for her freedom right from her birth till she gets married, her choices were made by men, before her marriage was her father and after her marriage husband and her father in law and so on. Women play the role models of the society, so for the reputation of the family she falls under the trap of customs, casteisms and religions etc. So she begins to adjust herself by not raising any voice against the violence. Compared to love marriages, arranged marriages put women at greater risk of domestic violence. Arranged marriage is the dowry paid free servant for the bridegroom family. Nowadays, live -in relationship increases is for the betterment of the avoidance of violence against women.

In any relationship, domestic abuse, also known as "domestic violence" or "intimate partner violence," is a pattern of behavior meant to gain or maintain control over an intimate partner. Physical, sexual, emotional, financial, or psychic acts or threats directed towards another person are considered forms of abuse. This includes any actions that terrify, intimidate, terrorize, manipulate, injure, humiliate, blame, harm, or wound another person. Domestic violence impacts individuals of all ages, genders, and social and educational backgrounds, affecting various partnerships such as marriage, living together, and dating”.

Women enjoyed equal freedom to men in ancient history during the Vedic period. But in the post vedic period, restrictions were put on women's rights and freedom by Manu and the women into subservience. The first step towards slavery is to prohibit her from pursuing education, in vedic terms called *“Upanayana or the sacred thread ceremony”* means “which was performed to initiate a person into the vedic studies was prohibited in case of women”. Then the second step is the marriage, the age was lowered to 9 or 10 years which leads to pre-puberty marriages. During the British period, drastic change in women's attitude due to education and western impact on the socio-cultural life of India. The English language provided the eye opening to the newly emerging middle -class, towards the ideology of liberalism which enshrined the values of liberty, equality, respect for individual secularism, etc. The Social Reform Movement of the nineteenth century and

the Nationalist Movement of the twentieth century both raised the issue of women's equality. The problems which attracted the attention of Social reformers were sati, prohibition on widow marriage, ill-treatment of widows, child marriage, denial of women education and denial of property rights. The National movement generated strength and confidence and drew a large number of women to fight for their cause which reflected the emergence of the All India Conference in 1927 as the march towards women equality. After Independence of India, in Indian society the position of women has seen tremendous changes in status because the drafting of the constitution of India had laid down a fundamental right in the equality of the sexes. In Spite of different and disparate cultures, one thing in common and that is the contempt of women.

### **CRUELTY BY HUSBAND OR RELATIVES:**

Prior to 1983, violence committed against women was not considered an offense in the spousal home because domestic violence a private affair not open to public scrutiny and state action. Whether outside or inside their homes the during the period of 70s and 80s most number of outbreak of cases of domestic violence were brutal sexual assaults, bride burning, incidents of rape. To tackle the problem, the criminal law (Second Amendment) Act of 1983 inserted a new provision in the Indian Penal Code to sort out the situation: a new Chapter XXA titled "Of Cruelty by Husband or Relatives of Husband" was inserted which penalized the husband as well as his relatives for infliction of Physical or Mental Cruelty on a women. By Act 43 of 1986, another section 304-B dowry demands leading to the deaths and suicides of married women was subsequently incorporated into Chapter XVI of the Indian Penal Code. Main reason for the provisions was to decrease the crimes of the rising offenses of Domestic Violence of young married women.

Section 498A of IPC 1860 mentions cruelty to married women by the relative of the husband specifically conferred either by blood or marriage or adoption. Cruelty is defined as "Any wilful conduct would result a women to commit a suicide". Such wilful conduct likely to cause grave injury to life, limb or health amounts to physical and mental health. Harassment or beating are also examples of Cruelty when coercing her in relation to any illegal demand for property or valuable security.

Dowry and Stridhan are both different, whereas dowry is a criminal offense. Despite the fact that Section 498-A was inserted into the Indian Penal Code 1860 as a result of the Criminal Law (Second Amendment) Act, 1983, it remains a deeply ingrained evil in society. But Stridhana was taken willingly by married women from her parents' home without any compulsion; it is legal. The boy or his family members demand cash and dowry, which often extend after marriage, leading to harassment of the wife if not complied with. The Supreme Court observed in the case of *Pratibha Rani vs. Suraj Kumar*<sup>1</sup> that the stridhan property given to the bride for the woman's use would belong to both the wife and the husband in the year 1985. In the same case, it was observed in AIR 1985 SC 628<sup>2</sup> that if the wife commands any of the members in the in-laws' home, the stridhan property should be handed over to her, even if it is in safe custody, and her husband or in-laws should be treated as trustees. The Parliament enacted the Dowry Prohibition Act, 1961, which stops both giving and taking of dowry. In spite of the act, it still continues in some of the castes and religions. Later on, the Dowry Prohibition Act of 1984 was amended.

#### **PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE:**

The parliament of India enacted to protect women from Domestic violence, came into force on 26th October 2006 by the Indian government and Ministry of women and child development. The Act allows the Government to pass protection orders implemented by the police, also appoint special protection officers, and helps to assist victims of domestic violence. Protection of women not only includes married women, but also women who are in live-in relationships. Torture by men is a major violation of human rights, not just a social issue, with negative health and social consequences for the victim. Abuses can be classified as follows:

**PHYSICAL ABUSE:** in the form of beating, slapping, biting, hitting, throwing objects, kicking, pushing, pulling of hairs, threatening with any form of weapons, stomping, punching, abandoning married women in a dangerous location, using weapons or any other force to pressurize her into performing an act that involves demanding dowry or cash from her parental home etc. Physical force is the sustains bodily injury results to cause harm like physical assault, criminal force.

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<sup>1</sup> 2 SCC 370:1985(Cri)180

<sup>2</sup> *Pratibha Rani vs. Suraj Kumar*

**SEXUAL ABUSE:** Sexual assault is a marital rape and reproductive coercion. Under Indian law, Marital rape under IPC is not the criminal offense, except during the period of the couples in separation. So, forced sex in marital rape as a crime only when the woman is below the age of 15. As a result, the protection of women from domestic violence Act 2005 (PWDVA) was invoked in the case of marital rape. Sexual violence is a form of forced anal sex, forced sex with others, includes the insertion of objects into the woman's vagina, threatened with mutilation of their breast, forced sexual encounters, forcing women to view pornography, any act that induces sexual behavior leads to women's degradation etc.

**PSYCHOLOGICAL AND EMOTIONAL ABUSE:** psychological abuse harmful to overall mental and physical wellbeing can gradually destroy a woman's sense of self worth. Emotional abuse is a common form of domestic violence blackmailing the women to continue in that abuse in case she wants to come out, they only stand for the reputation of the parental homes and matrimonial homes among the society so she sticks into that abuse for others. High rates of suicidal thoughts and attempts result from this.. Some of them also involves causing severe mental trauma, any insult, ridicule, humiliation name called and such acts as insults for not bringing dowry, any kind of wrongful claim on a woman's character conduct, degradation and blaming; stalking and isolation, insulting for not giving birth to male child but nowadays impotence of husband even insulting the wife intentionally etc.

**ECONOMIC ABUSE:** Woman not providing money, food, clothes, medicines; forcing her to vacate the matrimonial house if she is not being a slavery; causing hindrances to employment opportunities; locking her inside the house not allowing her to access anywhere for her needs, even not allowing her to visit parents or relatives, avoiding her by using any of her financial resources to which she is entitled under the custom or law, not allowed to sell or alienate any of her movable or immovable assets, jewelry and other items in which she has a stake etc.

## **WOMEN : HUMAN RIGHTS AND CONSTITUTION:**

### ***Domestic abuse as a human rights violation:***

Domestic abuse, considered a private matter, is increasingly a reality affecting female family members. A long international campaign by women's rights groups to raise awareness about

women's issues and address the issue of violence within the family. Women's organizations pushed for equal rights for women in the UN Charter and Universal Declaration of Human Rights, leading to the establishment of the UN Commission on the Status of Women. They drafted conventions to combat discrimination and pushed for the Decade for Women program. The Decade (1975-1985) focused on studying women's subordinate status and addressing violence against women. The Nairobi Final Conference decided that violence is a key impediment to attaining peace and other Decade objectives.

Human rights practice involves reporting facts to promote change, with non governmental organizations' influenced by their research methodology. Reporting violations involves investigating individual cases through interviews with victims and witnesses, supported by credible sources. Analyzing domestic violence as a human rights abuse depends on proving a pattern of violence and a systematic failure by the state to provide equal protection. Violence against women, including beaten, mutilated, burned, sexually abused, and raped, is a major obstacle to peace and other objectives.

### ***Constitutional Perspective:***

The Domestic Violence Act was passed by Parliament using Article 253 of the Constitution, allowing it to make laws in accordance with international treaties and conventions, following the recommendations of the United Nations Committee on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The Act was enacted in accordance with the fundamental rights guaranteed under Articles 14, 15, and 21, with Article 21 stating that life and liberty cannot be taken away except through a law-established procedure that must be fair, just, and reasonable. It has been decided that, among other things, which upholds the part of the right to life are as follows:

*Residency Rights:* A married woman has a legal right to reside in her matrimonial home upon her marriage. She cannot be made or forced, either physically or mentally, to leave such a home unless there is a legal obligation to do so, such as the termination of a marital relationship.

*Maintenance Rights:* A married woman has the right to seek maintenance from her husband if she

cannot provide for herself, claim maintenance for a separate residence, and claim maintenance from her in-laws if her husband cannot provide maintenance. This is part of her rights to the matrimonial home.

*Property rights:* The married woman has the right to claim a share in the matrimonial property, including the right to reside in the matrimonial house, regardless of whether it is owned by her husband or in-laws.

*Privacy rights:* A married woman has the right to maintain her privacy and life without interruption from her in-laws, including physical or mental harassment, abuse, and domestic violence.

*Remedial rights:* A married woman who has been removed from her matrimonial home has the constitutional and statutory right to seek remedies through the appropriate legal forums.

#### ***Articles 14 and 15 are enhanced by the Domestic Violence Act:***

The State may make special provisions for specific groups of people, such as women and children, even though Article 15 forbids discrimination on the grounds of race, religion, caste, sex, and other categories. The Act aims to protect women from domestic violence, dividing them into men and women based on gender. The Act is not arbitrary, as it is a well-thought-out and necessary effort to eradicate domestic violence. It is important to remember that women are typically victims, not men. Article 15(3) empowers the State to create legislation for women's benefit, creating an exception against Article 15(1). Article 15(3) protects the Act from discrimination, creating an exception for women and children. This could justify its extension to male children. The legislature's practicality and executive responsibility for implementation are crucial. The effectiveness of the Act will be measured by time, as there won't be immediate change in women's status.

#### **REMEDIES:**

The Domestic Violence Act provides civil and criminal remedies to address domestic violence, including monetary compensation, Protection Orders, and Residence Orders. Protection Orders aim to curb violence by issuing directions to the offender, while Residence Orders detail living

arrangements for the offender and aggrieved. The Act acknowledges violence against women and emphasizes the need for national machinery to address violence within families and society. It makes filing complaints and procedural matters easier, but it may require counseling and cause proceedings to be delayed by up to two months.

These may include restitution of conjugal rights, divorce, or criminal proceedings for dowry demand, cruelty, or domestic violence:

*Restitution of Conjugal Rights:* Where the Hindu Marriage Act, 1955 applies, a married woman may file a petition for restitution of conjugal rights under section 9 of the Act to assert her conjugal rights, including the right to cohabit or live together.

*Dissolution of Marriage/Divorce:* Following her departure from the marital residence, a married woman may file for divorce or dissolve her marriage on the grounds that her spouse has mistreated her physically or psychologically.

*Criminal Proceedings:* A married woman may file a criminal complaint against her husband and/or her in-laws under the DV Act, 2005, Dowry Prohibition Act, or Section 498A of the Indian Penal Code if she was forcibly removed from her marital home or forced to leave due to dowry demands, domestic abuse, or any other form of physical or mental cruelty.

## **CONCLUSION AND SUGGESTION:**

Human Rights Watch reports that police often fail to submit First Information Reports (FIR), particularly for low-income or socially disadvantaged individuals. The Domestic Violence Act (DV Act) has not adequately addressed issues confronting women and men who are victims of domestic violence, and it is frequently misapplied. Society needs more gender-neutral laws to treat men and women equally in domestic violence situations. To promote gender equality and fair justice, the DV Act should be amended to include more gender-neutral clauses.

Following are the few suggestions to seek before in order to prevent harassment against women:

(i) To avoid the violence against women the first step is that she should grow up with equality in her parental home, there should not be any gender based bias inside the home.



(ii) she should be independent to choose her partner as she wishes, parents duty is to assess whether she is going in the right path. Not to push her as per customs, religions and importantly society.

(iii) parents duty is to guide her to stand for her needs not to be dependent on mens so in order to avoid that she should be financially independent, should be capable of handling herself at least.

(iv) if she faces any issues relating to Domestic violence after her marriage, in her matrimonial homes she should be brave enough to speak up her voice with the society and also punish all the matrimonial members along with the husband as per law.

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