

Domestic Violence Act: Boon or Bane for Society and Role of Health Care Professional

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ABSTRACT

Domestic violence against women occurs across the globe, in sundry cultures, and affecting people across society, irrespective of their economic condition. Women who have experienced gender violence usually face mental health issues, emotional distress, and suicidal tendencies. Introduction of Domestic Violence Act 2005 was the foremost noteworthy effort in India to distinguish domestic abuse as a punishable offence, to broaden its provisions to those in live-in relationships, and to offer emergency relief and legal course for the victims. Doctors secure an important place to empower people, give necessary instructions, and consign them to suitable services. Forensic medicine experts can play a pivotal role and will be crucial in impediment, wakefulness, detection, and conviction of accused of domestic violence. An ingrained medicolegal system only can act as restraint to this peril. However, the misuse and exploitation of Domestic Violence Act 2005 is an issue of grave concern for the courts today.

Keywords: Awareness, Domestic violence, Health care providers, Misuse.

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INTRODUCTION

The United Nations framework for model legislation on domestic violence states "Every act of gender based physical as well as Psychological abuse by a spouse or any family member against women in the family, varying from simple assault to aggravated physical battery, kidnapping, threats, intimidation, coercion, stalking, humiliating verbal abuse, forcible or unlawful entry, arson, destruction of property, sexual violence, marital rape, dowry or related violence, female genital mutilation,

violence related to exploitation through prostitution, violence against household workers and attempts to commit such acts shall be termed 'Domestic Violence'."¹

Domestic violence against women occurs all over the globe, in sundry cultures, and affects people across society, irrespective of their economic condition. Alertness, perception, and maintenance of records of gender violence show a discrepancy from country to country.² A large nationwide survey from the National Family Health, India, shows that approximately 37% of married women have ever experienced cruelty by spouse of family members.³ The section of women who had ever faced physical or sexual violence or both by a spouse in their lifetime ranged from 15 to 71%.⁴

Health Issues with Domestic Violence

As per the Centers for Disease Control and Prevention and the World Health Organization, intimate partner violence is a grave, avertable community health issue, with remote health consequences.⁵ Women who have experienced gender violence usually face mental health issues, emotional distress, and suicidal tendencies.⁶ Women experiencing domestic violence were more prone to report not using their ideal method of contraception in the past 12 months in comparison with nonabused women, resulting in unintentional pregnancies among ill-treated women.⁷ There is very high incidence of opting for induced abortion among women having a latest history of domestic violence.⁸ Violent relationship destroys self-respect of the woman and her aptitude to partake in the world. Hence, such women are often incompetent to taking appropriate care after themselves and their children or to pursue jobs and careers.¹

Females are frequently facing cruelty over extensive period in the house of their in-laws. But they are incapable of asking for aid or support from anyone including her parents who are also quiet in spite of knowing all these things. The basic reason is sociocultural and financial, factors along with illiteracy and ignorance about rights and remedies. Other reasons for not reporting of domestic violence are:

- Fear of being socially secluded and fear of more brutality
- Absence of another means of financial support, i.e., victim is economically reliable on the abuser in case of spouse

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- Worry of future of the children
- Emotional reliance
- Absence of support from family and friends
- An abiding expectation that the situation will improve
- Do not know to whom and where to go.⁹

Incidence of violence was higher among women whose husbands had either themselves faced violence as children or had witnessed their mothers being beaten.¹⁰⁻¹² Alcoholism by the male partner is also one of the important risk indicators for domestic violence.¹³

Domestic Violence Act

Introduction of Domestic Violence Act 2005 was the foremost noteworthy effort in India to distinguish domestic abuse as a punishable offence, to broaden its provisions to those in live-in relationships, and to offer emergency relief legal course for the victims. Section 2(a) of the act will help any woman who is or has been in a domestic relationship with the "respondent" in the case. Section 2(q) states that it empowers women to file a case against a person with whom she is having a "domestic relationship" in a "shared household," and who has subjected her to "domestic violence." Children are also covered by the act; they too can file a case against a parent or parents who are torturing them, physically, mentally, or economically. Any person can file a complaint on behalf of a child. Section 3 of the law says any act/conduct/omission/commission that harms or injures or has the potential to harm or injure will be considered "domestic violence" under this; the law considers physical, sexual, emotional, verbal, psychological, and economic abuse or threats of the same. Even a single act of commission or omission may constitute domestic violence. A woman who is the victim of domestic violence will have the right to the services of the police, shelter homes, and medical establishments. She also has the right to simultaneously file her own complaint under Section 498A of the Indian Penal Code.

Sections 18 to 23 provide a large number of options for legal redressal. She can claim through the courts protection orders, residence orders, monetary relief, custody order for her children, compensation order, and interim/ex-party orders. If a husband violates any of the above rights of the aggrieved woman, it will be deemed a punishable offence. Charges under Section 498A can be framed by the magistrate, in addition to the charges under this act. Further, the offences are cognizable and nonbailable.

Domestic Violence Act and other laws for female harassment come as a helping hand in handling these dreadful issues. Domestic Violence Act has acted as a boon for females in many cases of domestic violence. In

spite of Government of India enacting such stringent laws, domestic violence against women in most of the cases go unreported until unless there is death of female or some brutal injuries leading to hospitalization of female.¹⁴

Role of Health Care Providers

Doctors secure a vital place to empower people, give necessary instructions, and consign them to suitable services. Numerous cases of partner abuse are handled exclusively by doctors but they are reluctant to involve the police. Education about domestic violence in medical college is very restricted and in numerous places they are totally deficient. Unfortunately, neither the doctor has intention to divulge the causative factor of the hurt inflicted on a woman, nor there is keenness of victim to come forward and raise the issue with their physician.¹⁵ All health care centers should recognize a nongovernmental organization (NGO) working for the women in their neighborhood. The NGO can effectively aid by giving moral support and can take the case ahead by their legal representatives and are liaising with the police station. The Prevention of Women against Domestic Violence Act 2005 has provisions of a protection officer in every area. Even hospital or health care center can inform them about the case of domestic violence, if victim comes for treatment. Appropriate training of the doctors, nurses, and paramedical staff needs to be done and should be sensitized to domestic violence issues. Females facing domestic violence should be precisely referred for counselling from a counsellor trained in intimate partner violence-based issues. The aid of police and legal system should also be taken whenever required. The Department of Community Medicine along with related departments like Obstetrics and Gynaecology, Paediatrics, and Orthopaedics can play a significant role viewing women for domestic violence attending the health center. The Department of Forensic Medicine can be extremely valuable for making the detailed and authentic injury report.¹⁶ Forensic medicine experts can play a pivotal role and will be crucial in impediment, wakefulness, detection, and conviction of accused of domestic violence. An ingrained medicolegal system only can act as restraint to this peril.

Prevention of Domestic Violence on Women

Domestic violence can be prevented by the following measures:

- To bring about vigilance among women in particular and in public in general as to how, where, and when to inform police in cases of domestic violence, especially in rural areas. Females should be educated about their fundamental rights and provisions made by the government in cases of domestic violence.

- Forensic trained nurses and paramedical staff to be appointed for medical examination of survivors of domestic violence including sexual offences.
- One-stop help centers should be made accessible for proper coordination of all stakeholders needed in medical examination of survivors of crime against women which will help to improve the conviction rate and also help in smooth conductance of procedure of examination.
- Medicolegal experts should be made available at taluka level or preferably at district level to reduce the errors done by the doctors not trained in forensic medicine while conducting the medicolegal examination of the survivors.
- Organize workshops, Continuing medical education and seminars for training and increasing the knowledge of handling the cases of domestic violence among the lawyers, police officers, paramedical staff, and NGOs.¹⁷
- Separate protection officer should be recruited by the government to reduce domestic violence. The court or legal procedure should be easy for the victims, and proper protection should be provided to them by the authority. Justice should be delivered in the mentioned time period (60 days).¹⁸

Many cases go unnoticed or unconvicted due to inappropriate medicolegal investigation, resulting in injustice to victims of domestic violence. Medicolegal experts should always give prompt, scientific, and precise report in cases of domestic violence for fast trial and instant justice to the victims.

Disadvantages of Domestic Violence Act

The Domestic Violence Act 2005 was enacted with an intention of giving protection to women from domestic violence. However, the misuse and exploitation of Domestic Violence Act 2005 is an issue of grave concern for the courts today. A vigilant screening of the grievance is necessary to guarantee that the complaint so filed by a woman under this law is not false or a measure to take vengeance against a man.

The major drawbacks of this law are as follows:

- *Preference to women:* The act takes into consideration that only women are victims. As per this law, only a woman can lodge a complaint against a man. A man has no privileges under this law.
- *Potential chances of misuse:* If complaint is lodged by a woman that her husband has verbally and emotionally abused her, then there is no need to prove anything. This implies that the woman gets a chance to settle her personal scores or blackmail the male, even though the person is innocent.

- *Definition of domestic violence:* An insult is also included as a domestic violence which is more likely between couples. This law can therefore, result in more divorces and breakdown of a family.¹⁹

CONCLUSION

Domestic violence is a fiery issue which is not possible to be solved by one agency. A combined effort involving health care providers, NGOs, media, judiciary, and government can only foil it. Even if it is not possible to prevent domestic violence, an alert system would ensure that the offender is identified and does get punished. Health system, preferably forensic experts, can play a key role and a linkage between the abused and the judiciary. Health care providers can not only help the woman with domestic violence to get medical help but can also avoid future abuses by reporting to appropriate authority. At the same time, complete and proper investigation should be done by investigation authority to prevent misuse of provisions of this act and unworthy injustice to innocent men.

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