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**A STUDY OF SOCIO LEGAL ASPECTS OF
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A Study of Socio Legal Aspects of Protection of Women against Domestic Violence: A Social Issue

Dr. Madhu Tyagi*

Associate Professor, Department Of Sociology, BSA College, Mathura

Abstract – Domestic violence is a wide spread problem, its actual extent is difficult to measure. According to available statistics throughout the world, about 33 percent women have experienced violence at some point of their life (WHO, 1997). In India, women form about half of the population and enjoy various freedom and rights but simultaneously, like other developing countries, violence against women is overwhelming and is a matter of concern. Domestic violence leads to violence of human rights and prevents them from enjoying their fundamental rights. Though the types of violence differs from society to society, nations to nations, religion to religion, but it prevails in underdeveloped, developing and developed countries, too. Domestic violence refers to “assaultive and coercive behaviours that adults use against their intimate partners” (Holden, 2003). In India, there are a set of well-equipped legislations which protect women against violence. And Protection of Women against Domestic Violence Act, 2005 is the milestone in the history of legal control and judicial response in domestic violence affairs. But the rate of violence against women increased 44 percent during 1993 to 2011. The findings of the paper are expected to enlighten individuals and the community on the causes and consequences of violence against women. The paper comes out with policy prescription for government and non-government organizations towards addressing the problem.

A systematic search for VAW legislation using international legal databases and other electronic sources plus data from previous research identified 124 countries/territories with some type of VAW legislation. Despite considerable efforts worldwide to strengthen VAW legislation, most VAW laws do not incorporate the key recommended components. Significant limitations were found in the legislative content, its application, and the extent to which it provided women with integrated protection, support, and care.

The study has analysed the role of the legislature and judiciary of India to understand the plight of the women with disabilities. Finally, it has been concluded that in near future in a third world country like India where women are discriminated and become easy prey to all kinds of crimes, then the condition of women having various kinds of disabilities will definitely worsen; therefore, at the end, the researcher has provided some solutions so that the amount of such torture and domestic violence over the disabled women can be reduced though it may not be completely eradicated.

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INTRODUCTION

Women in India, like many of their counterparts elsewhere, constantly find themselves in a vulnerable position. They are the soft targets for various unlawful and suppressive activities in different spheres of social life. Sexual violence appears to be an intrinsic part of women's lives. More surprisingly, there is massive rise in the officially counted number of crimes committed against women and particularly wives in matrimonial homes in India. Domestic violence is, however, not new and it is found in all societies across different economic and age groups. It has been argued that any traditional custom or practice that subordinates women has the potential to turn violent (Bhattacharya 2004:

13). Over and above, a strengthening of male-biased norms and values across all castes and classes in India has occurred along with increasing economic development (Kapadia 2002: 4). National Family Health Survey-3 reveals that 34 per cent of all women age 15-49 have experienced violence at any time since the age of 15 in India (IIPS 2007: 499). It is also not a matter of coincidence that despite low registration of crimes committed against women in India, the rate of such crime as per the figure released by the National Crime Record Bureau (NCRB) of Government of India has increased from 13.2 % in 2003 to 52.24 % in 2013.

The rural and illiterate women are more likely to experience violence than their literate or urban counterpart. The women's movement in India during the last few decades has reacted sharply to such escalating instances of violence against women and demanded sharp legal action. According to Menon (2000: 66), these efforts have been successful in that every campaign has resulted in legislative changes. But, these laws are hardly implemented and incorporation of more stringent punishment for a crime in the law book has rather resulted in fewer convictions than before. Consequently, women activists today express doubt about the efficacy of law to prevent violence against women.

The rising instances of domestic violence and pressure from women activists and NGOs have led the Government of India to pass the new protection law called The Protection of Women from Domestic Violence Act, 2005 (PWDVA)². Though feminist argue that law's treatment of women in relation to men has not always been equal and fair, many activists have hoped that the new law would provide the much needed protection and relief to women victims. This is more so as the new law has been drafted from a new perspective. Based on official statistics, secondary reports and data collected through a qualitative research, this paper tries to assess the extent to which the PWDVA has so far been able to achieve its objectives. The fieldwork was conducted in the district of Burdwan in West Bengal and 20 case histories of the victims of domestic violence out of a total of 320 respondents were analysed to understand the process of implementation of the law. The opinions of other stakeholders were also sought.

The United Nations defines violence against women. (Richard, 1998). It could be verbal or physical (Hawkins, 2011). This article focuses on domestic violence involving women, the existing law & incorporation of new act safeguarding them from domestic violence. The status of women in India has been subject to many great changes over the past few millennia. From equal status with men in ancient times through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India has been eventful. It is very disturbing as well as discouraging to think that a country that praises womanhood through epics and their devotion to goddesses can be so demeaning and indifferent when it comes to the common women living in the country.

There are many forms of violence against women, including sexual, physical, or emotional abuse by an intimate partner; physical or sexual abuse by family members or others; sexual harassment and abuse by authority figures (such as teachers, police officers or employers); trafficking for forced labour or sex; and such traditional practices as forced or child marriages, dowry-related violence; and honour killings when women are murdered in the name of family honour.

Violence of any nature or form is inhuman. As domestic violence undermines the value of a woman as an individual, it is a serious human right violation. Domestic violence most of the times is equated to physical abuse like beating, hurling of objects or abusing. Though it is most common and most visible variety of domestic violence, domestic violence is much more than just that. Other forms of it like psychological and sexual violence which are generally hidden from the social purview have equal or more implications. These violence need to be given high priority as they deeply impact a women's psyche and linger on for a longer period of time than most physical scars and pain. If the inflictor of violence is unaware about the serious implication associated with his action, there is a higher chance that he may resort to physical violence. It has also been observed that among educated couples incidence of physical violence is comparatively low but, they tend to resort to psychological and sexual violence to overcome their frustrations and limitations.

Domestic violence has gradually emerged as a global problem. It is present in all countries irrespective of the nation's social, economic and political status. Policy makers and social scientists worldwide have started taking serious note of it and therefore, various legislations and acts are being formulated to counter domestic violence¹. Surveys have frequently conveyed that many women who undergo this trauma don't bring it to the notice of the state agencies like police or women commissions mainly because of fear, ignorance of law and lack of confidence in these agencies. Therefore, most of the cases related to domestic violence go unreported.

The majority of persons aggrieved by domestic violence are women and domestic violence ranges from dowry abuse leading to death, verbal assault, marital rape etc. Many victims of domestic violence in India are unable to leave this abusive situation due to psychological and socio-economic factors and continue to be victims of such violence, putting their lives and health in jeopardy. Still domestic violence is an issue that can be sorted out within the four walls of the house and some amount of violence is considered as a part of normal wear and tear of marital life.

In 21st century Indian women are increasingly being educated and joining more and more working lives but still they are subjected to different kinds of domestic violence like wife beating, bride burning, mental and physical abuse, cruelty by husband and in-laws, marital rape, dowry death etc. All these are widespread in our society and women are facing unequal treatments in every field of their social lives.

In this context, it is also stated that after Independence of India the framers of the constitution of India were conscious about the discrimination and unequal treatment on women in every field of their lives and violence against women including domestic violence. Consequently, they included certain general as well as

specific provisions in the constitution of India under Part III as "Fundamental Rights" and Part IV as "Directive Principles of State Policy" for the uplift of the status of women and also to eradicate the violence against women from the society.

Violence against women is not only national or regional issue; nowadays it is increasing day by day and evolves out as global burning social issue. Domestic violence is a problem affecting millions of women globally and this problem manifests in various forms, for instance, in the context of marriage or cohabitation, between siblings and between parents and their children (Lynn, 2004). The NFHS-III report reveals that 37 percent married women in India are the victims of physical and sexual abuse by their husband.

DOMESTIC VIOLENCE AGAINST WOMEN IN INDIA

After prevention of Domestic Violence Act, 2006 ten thousands domestic violence cases by major states in India are reported against women during 2006-07 is represented in below mentioned table and it is also importance to state that maximum cases depart unreported. Table 1 surprisingly shows that major states of India have maximum number of recorded cases of domestic violence after the implementation of domestic violence Act. The literacy rate of Kerala is better than Rajasthan but Kerala placed second position in the country. Education is a crucial factor for domestic violence, the above mentioned table reveals that high literacy rate may the level of awareness is high so the number of recorded cases are also. In case of Rajasthan less literacy rate results lack of awareness and more number of register and non-registered cases of domestic violence.

National Commission for Women has in 2003-04 recorded 902 cases of dowry harassment and 310 cases of matrimonial disputes. The National Crime Record Bureau (NCRB) Report 2003 indicates that 36.1 per cent of the total reported crimes against women pertain to domestic violence. Domestic violence leads to violence of human rights and prevents them from enjoy their fundamental rights. Violence against women is not an answer. It is a problem, one that is increasingly on the rise. Gender Violence has some definite effects for our civil society, which may occur due to some reasons.

i) **Poverty:** Poverty is reported as the most profound background risk factor for violence against children and women (WHO, 2002). It is common myth that domestic Violence only happens to poor women, in fact it occurs in all kinds of families and relationships. Poverty has been identified as both a contributing factor and as a consequence for interpersonal violence (WHO, 2004). Low economic status

of the household is not necessarily a casual factor; it is generally assumed to significantly increase the risk of domestic violence (Ghosh 2007).

ii) **Locality:** A multinational study based on prevalence and incidence of domestic violence in developing world, six out of nine countries showed women living in urban areas are significantly more likely to report domestic violence than rural women, on the other only two countries India and Egypt showed reciprocal relationship (Kishore, 2004). Locality is another dominating factor for domestic violence in Tripura. Rural victims are more suffers than to the urban ones from domestic violence and number cases are higher in rural Tripura (Roy, 2010).

iii) **Educational level:** Level of education is one of the determining factors in case of Domestic violence and relationship status. As per the multinational study based on prevalence and incidence of domestic violence it can be hypothesized that the relation between husband's education and violence is negative and monotonic (Kishor, 2004). In case of husband if the education is higher mental torture is also higher and with the less education physical torture is elevated.

| State | No. of Cases | Literacy Rate |
|----------------|--------------|---------------|
| Rajasthan | 3440 | 67.10% |
| Kerala | 1028 | 87.89% |
| Andhra Pradesh | 331 | 91% |
| Delhi | 607 | 86.3% |
| Maharashtra | 603 | 80.1% |
| Goa | 603 | 82% |
| Gujarat | 315 | 77.3% |
| Punjab | 249 | 79.7% |
| Haryana | 235 | 76.6% |
| Uttaranchal | 145 | 79.6% |
| Karnataka | 124 | 75.6% |
| Bihar | 64 | 63.8% |
| West Bengal | 54 | 77.1% |
| Orissa | 12 | 73.45% |
| Other states | 1087 | - |

Table 1. State-Wise domestic violence cases and literacy rate.

The study conducted by the Northeast Network (NEN, 2004) in the North Eastern States like in Manipur and Assam regarding "Violence against Women in North East India", 2004 cited that gender based violence is on the rise due to lack of societal support of women, lack of knowledge of right and gender insensitivity issue. The present study found that if the education status of wife is higher than the mental violence is higher than to the physical and sexual.

- iv) **Economic share:** It is quite natural that economically independent women i.e. women participating in economic activities are able to contribute financially in the family and that's why may be expected to be less likely to be victimized to domestic violence. As per NFHS III, employed women experienced higher rates of physical as well as mental violence. According to the study conducted by TWC, 2005-06 on "Land right of Women in Tripura" denoted that in poor families land ownership of women did very less and maximum land own women were educated. Whereas it was found that in Muslim religion women was less in percentage, who had owned land. So, the dependency ratio is one of the indicators of violence. It's seems that economically empowered women are less victim of any kind of violence.
- v) **Decision making:** The power of decision making in a family indicates that the family culture. If the family depends on the decision of women members of the family, it reflects family members have enough faith on her. Hence, it is usually considered as an indicator of women empowerment. Empowered women are naturally less prone to domestic violence. Ironically it is found that if the female contributes more in the family earning or economically sounds enough have more power decision making, reveals that economic capacity of a women has definite co-relation with her decision making in family matters. As per Roy, 2010 decision making regards monetary, expenditure, family planning and others mainly taken by the male counterpart of the family.
- vi) **Dowry:** As per Dowry Prohibition Act both taking and giving dowry are considered as criminal offence. In spite of this Act in sections of the society taking and giving of dowry occurred frequently. It is seems that prevalence of different types of domestic violence is higher in those families who had taken dowry during marriage than those who not taken. As per the news daily the North East Today 544 nos dowry death had been recorded till January, 2015 for the FY 2014-15, which is really very painful. So it may revealed that dowry related crime, violence even death are prevailing in the society.

The analysis of research findings of various surveys and studies show that there is increasing trend of domestic violence against women. There are various socio-cultural and economic determinants of domestic violence while the nature and forms of domestic violence vary from society to society depending upon socio-economic and cultural status of the societies. There are also marked variations in the nature, extent and impact of domestic violence against women across the geographical regions of India. In India, the actual prevalence of domestic violence against women is scant. Moreover, it simply demonstrates that a large proportion of women belonging to lower caste and communities experience domestic violence. Moreover, physical violence is more pronouncing in the lower classes of the society. The domestic violence is mainly reported in form of emotional violence; however, nature and frequency of domestic violence vary depending upon the socio-cultural variables. The main reasons of domestic violence are related to economic spheres; however, other social factors also influence the nature and frequency of domestic violence.

CAUSES OF VIOLENCE

There are 4 main reasons for domestic violence to persist in India.

1. **Male dominated society:** Even though women had risen to top positions, India was & still remains as a male dominated country.
2. **Lack of awareness of Laws:** Victims of domestic violence are afraid to protest as there is lack of awareness or rather lack of initiative to make her aware of her rights.
3. **Laxity in implementation of the existing Acts:** No or less efforts are made to increase awareness amongst the women by the authorities posted to implement the Act.
4. **Bureaucracy & Fear:** If a domestic violence is reported by a third party then he/she is scrutinized as an intruder and problem maker by the community. The bureaucracy associated with reporting of domestic violence, lack of funds for support group adds up to the continued domestic violence in India.

There are many different theories as to the causes of domestic violence. These include psychological theories that consider personality traits and mental characteristics of the perpetrator, as well as social theories which consider external factors in the perpetrator's environment, such as family structure, stress, social learning. As with many phenomena regarding human experience, no single approach appears to cover all cases.

PREVENTION AND RESPONSE

Further evaluation is needed to assess the effectiveness of violence prevention measures. Interventions with promising results include: Increasing education and opportunities for women and girls, improving their self-esteem and negotiating skills, and reducing gender inequities in communities. Other efforts with positive outcomes include: Work with teenagers to reduce dating violence, Programmes that support children who have witnessed intimate partner violence, Mass public education campaigns and Work with men and boys to change attitudes towards gender inequities and the acceptability of violence.

Advocacy for victims, Better awareness of violence and its consequences among health workers, and Wider knowledge of available resources for abused women (including legal assistance, housing and child care), can lessen the consequences of violence.

WHO RESPONSE

WHO and partners collaborate to decrease violence against women through initiatives that help to identify, quantify and respond to the problem, including:

Building evidence on the scope and types of violence in different settings. This is a key step in understanding the magnitude and nature of the problem at a global level.

Developing guidance for Member States and health professionals to prevent violence and strengthen health sector responses to it.

Disseminating information to countries and supporting national efforts to advance women's rights and prevent violence.

Collaborating with international agencies and organizations to deter violence against women globally.

THE PROBLEM: A LEGACY OF PATRIARCHY

In India, a crime is committed against a woman every three minutes. ⁶ In a 2005 survey, 37% of married women in India reported experiencing domestic violence at some point during their marriage.⁷ Despite these alarming statistics, experts agree that actual rates of violence against women are likely higher than what is reported in these studies; underreporting may be caused by embarrassment, denial that violence is a problem, or a failure to recognize that the behavior is abusive.⁸ In fact, as many as 70% of the female victims of domestic violence in India believe their physical abuse was justified for one reason or another. The cultural issues that contribute to these high rates

of violence against women threaten the effectiveness of the Act.

India's longstanding and widespread discrimination against women, rooted in the patriarchal social structure,' makes it unlikely that any purely legal solution will decrease rates of violence against women because violence against women is socially maintained by Indian cultural norms. First, many people fail to recognize domestic violence as an unacceptable form of control over women. Indian society expects and tolerates a certain level of violence against women while failing to recognize the true cause of domestic violence." While Western literature views domestic violence as a means of exerting control over the woman, this view does not prevail in India.' Instead, "maladjustment" is often cited as the cause of domestic violence. Therefore, the preferred method of dealing with domestic violence is joint counseling, which may value the continuation of the marriage above the safety of the woman. This perception is reflected in the Act itself, which provides the husband and wife time to work out their differences.

The failure of the courts and some advocacy groups to recognize domestic violence as a form of domination and control by men is a serious impediment to providing true protection for women from domestic violence. Second, prejudice against women is widespread in India. The conception of a woman as her husband's property pervades Indian society.' ⁶ Although the Indian Constitution guarantees equal rights for all citizens, gender equality is neither recognized nor accepted in Indian society. There is also a general prejudice against women, which is reinforced and maintained through the system of dowry and Indian personal laws.' The dowry system is both evidence of gender inequality and a tool for perpetuating the system of discrimination.'

The evolution and enforcement of Indian personal laws also reflects a prejudice against women in Indian culture. Although India's Constitution directs the state to create a uniform civil code applicable to all citizens, a single, secular civil code does not exist. Instead, laws relating to marriage, divorce, child custody, property inheritance, and other personal and family issues are determined by the individual religious community to which the particular citizen belongs.

These laws, which vary between Hindus, Muslims, Christians, and Sikhs, are known as personal laws. The evolution and enforcement of Indian personal laws also reflect a prejudice against women in Indian culture. While the existence of personal laws is justified by advocates as protective of pluralism and the religious rights of minority groups, they have been

criticized as a mere means of reinforcing patriarchy and preventing gender equality.

PROVISIONS UNDER THE NEW DOMESTIC VIOLENCE LAW

Before the enactment of the Act, the term „domestic violence” was defined narrowly to refer to only cruelty and harassment of wife, and wife’s murder under section 498A and 304B of the Indian Penal Code. Continuous struggle by women’s groups has changed the situation and ultimately the lawmakers of India have realized that domestic violence mean not only violence related to dowry but several other forms of crimes. PWDVA is a comprehensive law and it addresses all issues related to women in the domestic sphere. Interestingly, as per the judgement of the Bombay High Court delivered on 18th July 2009 provisions of the new Act will apply retrospectively. This means that women can seek benefit of the welfare provisions provided in the new Act even though they have faced violence much before the Act came into force in October 2006. The act has categorized „domestic violence” into four categories, namely a) physical, b) sexual, c) verbal & emotional, and d) economic violence, and attempted to define such violence comprehensively.

The act has laid down stringent rules to prosecute a man for any type of violence committed against women at home. All crimes in the PWDVA are non-bailable. Even though the new law is framed to protect women from domestic violence committed by adult male „respondents”, an aggrieved wife may also „file a complaint against relatives” including female relatives of the husband. However, „no order under clause (b) shall be passed against any women” (under chapter 1V, section 19) and remove her from the shared household. A victim also has the right to simultaneously file her own complaint under section 498A of the Indian Penal Code(IPC). For committing a crime under the domestic violence act, a man can be jailed for one year, or fined up to Rupees twenty thousand. He also faces the risk of being booked under sundry sections of the IPC. The new Act goes beyond the 498 (A) of the IPC and extends protection to wives, sisters, mothers, daughters, single women and even to female live-in partners. The law empowers the court to stop any further acts of domestic violence on the woman or her children. It also prescribes for giving possession of stridhan, jewellery, clothes etc., to woman and stops all transactions of any joint bank accounts/lockers. Further, the act provides for the right of woman to live in her matrimonial or shared household peacefully, her right to property in which she is residing, and stops any disposing off the house without the permission of the court. In other words, an aggrieved wife cannot be harassed for lodging a case against her husband or other male members of the house.

The law also makes a provision for positive entitlements through an interim monetary relief order

related to a) maintenance for the victim or her children, b) compensation for physical injury including medical expenses, c) compensation for mental torture and emotional distress, d) compensation for loss of earning, e) compensation for loss caused by destruction, damage, removal of any property from her possession or control. Thus, the Act for the first time extends beyond the framework of mere „punishment” to the offender of crime and tries to help and protect women from violence at home.

The creation of an official cadre called Protection Officers (POs) and recognition of NGOs as Service Providers (SPs) are two other salient features of the new law. The POs and the SPs will also provide free legal, medical, shelter and other assistance to the aggrieved woman. The POs can be penalized for failing to discharge his/her duty with the permission of the state government.

Besides, the law takes into consideration the issues like speedy justice and easy accessibility to justice. First, the cases under this new act will be adjudicated under the magistrate’s court, which is located at the sub-district level. Second, there is emphasis on speedy disposal of cases. The first court hearing has to be fixed within three days of the date of receipt of application, and within sixty days of first hearing, the case is to be disposed of. In addition, the act makes provision that the sole testimony of the aggrieved person may be sufficient for the court to reach a conclusion.

In 1983, domestic violence was recognized as a specific criminal offence by the introduction of section 498-A into the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman. Four types of cruelty are dealt with by this law:

Conduct that is likely to drive a woman to suicide, Conduct which is likely to cause grave injury to the life, limb or health of the woman, Harassment with the purpose of forcing the woman or her relatives to give some property, or Harassment because the woman or her relatives is unable to yield to demands for more money or does not give some property.

The punishment is imprisonment for up to three years and a fine. The complaint against cruelty need not be lodged by the person herself. Any relative may also make the complaint on her behalf. The above section relates to the criminal provisions of a more stringent offence. The civil law does not however address this phenomenon in its entirety. There was a need of provision in law with more pliable remedies to offer within the broader framework of civil and criminal laws. A law was enacted keeping in view the rights guaranteed under the article 14, 15 & 21 of the constitution to provide for a remedy under civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society.

The Protection of Women from Domestic Violence Act 2005 (PWDVA) was brought into force by the Indian government from October 26, 2006. The Act was passed by the Parliament in August 2005 and assented to by the President on 13 September; 2005. The Act has 5 chapters & 37 sections. Below are the few important sections of the Act:

Section 2 enumerates various definitions to be used in the Act.

Section 3 Definition of domestic violence:

For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it:

- a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

PROCEDURE OF FILING A COMPLAINT UNDER PWDVA

1. The complaint can be made by the aggrieved or by any other person on her behalf to the police officer, service provider, who then informs the protection officer (who ideally is an outreach officer of the court) who liaise between the aggrieved person, police & the service providers (Sec. 5, Rule 5, Form I). He then prepares Domestic Incidence Report (DIR), prepare safety plan (Form V) as desired by the aggrieved to prevent further domestic violence.
2. He arranges legal, medical aid, shelter home, & transport for such facilities. He also updates list of all service providers in the area.
3. The protection officer sends the DIR to the Magistrate.

4. The magistrate can receive application asking relief directly from the aggrieved, from any person on her behalf or from the protection officer (Sec.12).
5. On receipt of application the magistrate then fixes first date of hearing, 3 days after filing of Application. In case of women facing grave danger, the court can pass expert interim order in her favour and then fix the date. He shall also endeavour to dispose of every application within 60 days of the first hearing {Sec. 12(5)}
6. The respondent is then served with notice of the date of hearing, via the protection officer, within 2 days of filing application and is asked to attend the court.
7. The Magistrate after hearing both the sides may secure assistance of welfare expert (Sec.15) or direct both parties to undergo counselling (Sec. 14). He may also grant expert orders on the basis of affidavit filed by the aggrieved (Sec. 23(2), Rule 7, Form III). He may carry out entire proceedings in camera if requested by the aggrieved.
8. The Magistrate can pass orders within 60 days of the filing of the application U/S 17, 18, 19, 20, 21 of the PWDVA or any such order is enforceable throughout India, and shall be in force till the aggrieved person applies for discharge.
9. Either party can appeal against the order passed within 30days from the date of official receipt of order passed by the Magistrate (Sec. 29)
10. Violation of orders passed by Magistrate, is liable to one year of imprisonment or fine which may extend to Rs.20000/- or both [Sec 31(1)].

CONCLUSION

We can therefore conclude that domestic violence is indeed a serious human right issue and it can be eradicated from the society only when responsibility towards it is shared by all stakeholders, collectively. States should work towards strict implementation of legislations related to domestic violence and stringent punishment should be attached to any kind of violation.

Since the past 2-3 decades, there are lot of efforts made by the NGO's, social activist and time to time by the Government to curb domestic violence against women and safe guard her constitutional rights, but still there is a rise in domestic violence. The reason

being incorrect implementation and misuse of these laws by the miscreants; may it be the accused, the police or the lawyers. If applied correctly the Protection of Women against Domestic Violence Act 2005 (PWDVA) is a powerful act. After the implementation of the act wide range of cases were filed across the states of India and judgments delivered under PWDVA by the family courts, civil courts and in few by the supreme courts.

REFERENCES

- Ahlawat Neerja (2005). Domestic Violence against Women: Emerging concerns in Rural Haryana", *Social Action*, 55: pp. 387-394.
- Davis L. Richard (1998). *Domestic Violence: Facts and Fallacies*, Praeger Publishers, United States of America.
- Dawn Hawkins (2011). Domestic violence; Abuse: violence within home; at: http://crisis_support.helium.com/topic/4594-domestic-violence
- Domestic Violence Against women in India (2009). Summary- Papers presented at the Natinal Seminar on Domestic Violence Against Women and Role of Protection of Women from Domestic Violence Act, 2006, held at Lucknow during, Madhav Books.
- Ghosh S. & Mohanty S. K. (2007). Domestic Violence & Reproductive Health Among Young Married Women in India: An Exploration from NFHS-II. IUSSP Conference Tours, France, pp. 192-195.
- Kenney Latchana Karen (2012). *Domestic Violence*, ABDO Publishing Company.
- Leela Visaria & Nishi Mitra (1999). Veena Poonacha and Divya Pandey; *Domestic Violence in India : A summary report of three studies*; at: <http://www.icrw.org/files/publications/Domestic-Violence-in-India-1> Summary-Report-of-Three-Studies.pdf
- Manushi (2003). A Journal about Women & Society; Laws Against Domestic Violence and Abuse., 137: at <http://www.indiatogether.org/manushi/issue137/laws.htm>
- Misra Preeti (2007). *Domestic Violence Against Women: Legal Control and Judicial Response*, Deep and Deep Publishing Company.
- Pami Vyas (2006). Re-conceptualizing Domestic Violence in India: Economic Abuse and the Need for Broad Statutory Interpretation to Promote Women's Fundamental Rights, 13 MICH. J. GENDER & L. 177, 187.
- Puma Manchandia (2005). Practical Steps toward Eliminating Dowry and Bride-Burning in India, 13 TUL. J. INT'L & COMP. L. 305, p. 319
- Ray Sawmya (2006). Legal Constructions of Domestic Violence', *Sociological Bulletin*, 55 (3), pp. 427-448.
- Roy M. (2010). *Domestic Violence against Women in Tripura*. Agartala: Tripura Commission for Women.
- Sudersan Harini and Ramakrishnan Niruphama (2013). The Domestic Violence Act: Constitutional Perspectives, <http://www.legalserviceindia.com/articles/dmt.htm>.
- Sunil Bhawe (2007). Deterring Dowry Deaths in India: Applying Tort Law to Reverse the Economic Incentives that Fuel the Dowry Market, 40 SUFFOLK U. L. REV. 291, pp. 298-99.
- The Protection of Women from Domestic Violence Act, No. 43 of 2005; India Code (2005) [hereinafter Protection of Women Act].
- Waghamode R. H., Desai Bhavana and Kalyan J.L. (2013). Domestic Violence against Women: An Analysis, *International Research Journal of Social Sciences*, 2(1), pp. 34-37.
- WHO (2002). *World Report on Violence and Health*. Geneva: World Health Organization.
- WHO (2004). *World Report on Violence and Health*. Geneva: World Health Organization.
- WHO Media centre; Violence Against Women; fact sheet No*239, November 2009; at: <http://www.who.int/mediacentre/factsheets/fs239/en/index.html>

Corresponding Author

Dr. Madhu Tyagi*

Associate Professor, Department Of Sociology, BSA College, Mathura

E-Mail – tyagidra@gmail.com