

CHALLENGES OF DOMESTIC VIOLENCE OF WOMAN IN JAMMU AND KASHMIR

Manzoor Ahmad Khan

Research Scholar, Department of Sociology, University of Kashmir

Farooq Ahmad Khan

Research Scholar, Department of Sociology, University of Kashmir

Abstract: Domestic violence is being considered a big menace in the society. Despite the attention that domestic violence issues have received, publicized instances of domestic violence continue to occur. People who are repeatedly offended by spouses or other associates often suffer from low self-esteem, feeling of shame and guiltiness and a sense that they are trapped in a situation from which there is no escape. Focusing on the role of woman in the society, it could be proudly said that in almost every field of life women are playing their roles as their counterparts. They have created social, cultural and economic wonders. No doubt, women have been empowered by the governmental efforts in many sectors whether it may be the health sector, economic sector, political sector, and educational sector. Even then the social status of women is so poor that repeatedly the women is victimized in the cases like, dowry, sexual harassment, female infanticides and sex selective abortions, domestic violence, trafficking, etc. The focus of this paper is to highlight the violence against women in Jammu and Kashmir.

Keywords: Violence, Self-Esteem, Empowerment & Educational Sector.

Introduction: The domestic violence against women composes of all acts which hurt the women physically and mentally. It reflects in all practices related to wife beating, harassment of women, denial of basic rights and needs to women, demand of dowry, grabbing of women's money, bride burning and rape of women. Recently women's day was celebrated all across the globe. On the 8th of March, people remember and celebrate those moments which have been instrumental in championing the cause of the women. At the same time women is facing newest kind of exploitation that we should lament on. Violence against women is present across the world cutting across boundaries of culture, class, education, income, ethnicity and age. When the violence occurs within home, the abuse is effectively condoned by the tacit silence and the indifference by the instruments of the state and the law-enforcing machinery. Internationally, one in three women have been beaten, coerced into sex or abused in their lifetime by a member of her own family (Heise *et al.* 1999). Domestic violence is the most prevalent yet relatively hidden and ignored form of violence against women and girls. While reliable statistics are hard to come by, studies estimate that, from country to country, between 20 and 50 per cent of women have experienced physical violence at the hands of an intimate partner or family member. Wife beating is not only rampant, but male justify it with plethora of contexts.

Overview of the Jammu and Kashmir Protection of Women from Domestic Violence Act 2010 (PWDVA): Definition of "Domestic Violence": The Act defines "Domestic Violence" for the first time in Indian law. It is a comprehensive definition and captures women's experience of abuse and includes not only physical violence but also other forms of violence such as emotional / verbal, sexual, and economic abuse. It is based on definitions in international law such as the UN Declaration on Violence against Women and a Model Code.

The Act Recognizes Domestic Violence As A Human Rights Violation: It recognizes a woman's right to live in a violence-free home. To realize this right, the Act recognizes a woman's right to residence and her right to obtain protection orders under the law.

The Reliefs Provided In The Act Are Meant To Provide Immediate Relief In Emergency Situations: The Act does not make any changes in the existing personal law regime on family matters. The reliefs under the Act are in addition to existing laws and have been recognized with the objective of empowering a woman to tide over an emergency situation. Having obtained relief under the law, a woman can still go for relief under other laws later.

Access to justice and the availability of infrastructure: Recognizing that a woman requires assistance with legal procedures and other forms of support, the PWDVA allows for the appointment of Protection Officers, and recognizes the role of Service Providers in providing medical, shelter, legal, counseling and other kinds of

support services. The Protection Officer is the person in charge to assist women to avail of these facilities as well as assist her in obtaining the appropriate order under the Act.

Procedures to Obtain Orders, Reporting Of Violence and The Consequence of Breaching The Obtained Orders: The Act includes provisions for making Domestic Incident Reports which will serve as important records at the stage of evidence taking. The manner in which the applications for orders are to be made under the Act have also been mentioned in the Act. Finally, the Act provides that the breach of an order obtained is a criminal offence.

PWDVA:

- It is a civil law for protection orders and not meant to penalize or punish
- It recognizes the right to residence of woman, It recognizes the right of the woman to live in a violence-free home and that she should not be facing violence
- It provides only temporary and emergency relief
- it is a law in response to the needs of the woman
- It has certain crossovers from civil to criminal law—so when the protection order or Magistrate's order is violated, criminal law will start.

Socio-legal analyses of Jammu and Kashmir Protection of Women from Domestic Violence Act 2010 (PWDVA): According to a socio-legal approach, analysis of law is directly linked to the analysis of the social situation to which the law applies, and should be put into the perspective of that situation by seeing the part the law plays in the creation, maintenance and/or change of the situation. It has been argued that the legal structure would largely depend upon the overall social setup. Having a look at the Jammu and Kashmir Protection of women from Domestic Violence Act, *prima facie* it looks that this act was supposed to be effective in reducing the domestic violence. As a student of sociology I believe that problem does not wholly lies in the law itself but the social factors which hinder the implementation of the said act. As far as the state of Jammu and Kashmir is concerned the women is not aware about their rights, it has been often seen that women seldom know that there is a law which can protect them from the victimization from her husband and her in-laws. Violence in the domestic sphere is usually perpetrated by males who are, or who have been, in positions of trust and intimacy and power – husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, son, or other relatives. But, many of the victims of domestic violence has either refused to name the perpetrator of the assault or attributed the injuries to other reasons (*Daga et al.*, 1999). Moreover women going to the police station are looked down upon. Women have Insufficient understanding of the law and lack of access to the courts. The neighbors witnessing the victimization of women never bother to complain it the concerned authorities. Relatives are often seen suggesting women not to complain against the harassment as may put there nuptial bond in danger. Both men and women implicitly acknowledged a baseline level of socially acceptable violence. However, participants indicated a normative threshold of acceptability, beyond which violence becomes objectionable. Three main factors or dimensions of the social acceptability of violence were highlighted: intensity, justification and frequency (*Vivian et al* 2003). Many women do not seek arrests because of the fear of retaliation and also in part due to the controlling behaviors of their violent partners (*Hoyle and Sanders* 2000). Such kind of society according to socio-legal approach, hinder proper implementation of the law. By applying socio-legal analysis it can be said that as long as social set up is not more approachable to law the implementation of law seems to be ineffective.

Methodology: A major problem has been identified regarding violence against women in Jammu and Kashmir. The present study is based on the secondary source of data. For the secondary data, different published research articles, books and magazines etc were used.

Review of Literature: Roy, Prahelika (2015) has mentioned that there is no single factor to account for violence perpetrated against women. Several complex and inter connected institutionalized social and cultural factors have kept women particularly vulnerable to the violence directed to them, all of them, manifestations of historically unequal power relations between men and women. Factors contributing to these unequal power relations include socio economic forces, the family institution where power relations are enforced, fear of or control over female sexuality, belief in the inherent superiority of males and legislation and cultural sanctions that have traditionally denied women an independent legal status.

Conclusion and Suggestions: Jammu and Kashmir protection of women from domestic violence 2010 was passed in keeping view the rising trends of domestic violence in the state. It has been seen that nothing substantial came out from the act itself. The newspapers are filled with horrible incidents of women being murdered, abetted to commit suicide or any kind of violence inflicted upon her within the four walls of home. The causes are actually in the social structure that leads the law ineffective. Once law is more approachable it would start to show the results, the law would become approachable once obstacles from the social system are phased out. As we know that the domestic violence is such a crime is done within the house, so it is impossible for the agencies under the act to get the notice of such incidence. Hence the responsibility lies on the women herself to get the complaint register. Secondly responsibility lies on the neighbors to report any act of domestic violence to the authorities established under the act (PWDVA, 2010). Thirdly, the relatives especially parents have to be more supportive to the women to get the complaint registered. To conclude it can be safely said that law and social institutions has to work together to seek the better implementation of the PWDVA in the state of Jammu and Kashmir. A proper societal-legal environment has to be built to make the houses safe and secure for the woman.

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