

Domestic Violence: Causes, Consequences and the Remedial Role of Domestic Violence Act, 2005

M. M. Verma*

ABSTRACT

Domestic violence against women is a widespread problem; however, its actual extent is difficult to measure. The research studies and surveys conducted by individuals generally produce higher estimates of violence than official records. However, they are also assumed to underestimate the actual extent of domestic violence against women. For a variety of regions, women may fail to report violence that takes place in family. In India, the actual prevalence of domestic violence against women is scant. However, NFHS-III (2006-2007) report indicated that about 35 per cent women have experienced physical or sexual violence from their intimate relationship in the family. The nature and extent of domestic violence vary depending upon the socio-cultural variables and environment. Against this view point, present paper attempts to review the implementation of Protection of Women from Domestic Violence Act.

Introduction

In the current global environment, 'growth', development, and 'empowerment' are the buzz words. Violence of any sort produces anti growth and regressive environment and is the greatest hindrance in the process of development. We generally define development as a phenomenon of positive change in different spheres of life of an individual or a nation. Violence intimidates this process of positive change, as it denotes an assault, verbal or physical, resulting in destruction consequences. Domestic Violence is the most common phenomenon in man-women or conjugal relations, wherein most cases, man or his close relatives are the perpetrators and the woman (mostly wife) is the victim. This violence against women has disastrous consequences, physically, emotionally, economically and socially. It often results in psycho-emotional distress, poor mental and reproductive health and severe violation of human rights. The victims' self confidence, self esteem and ability to perform gets eroded to a great extent, which is detrimental to the growth and development of the society and the nation.

* Professor, Department of Social Work, Mahatma Gandhi Kashi Vidyapeeth, Varanasi (U.P.)

The Constitution of India, under Article 15 provides for prohibition of discrimination against the citizens on the grounds of religion, race, caste, sex or place of birth or their subjection to any disability, liability or restriction on such grounds. Clause 3 of the same section empowers the legislature to make special provisions for the welfare and development of women and children. India is also a signatory to the UN Convention on Elimination of All Forms of Discrimination against Women as well as the Universal Declaration of Human Rights. Both these instruments are meant to ensure that women are not subjected to any discrimination and they are able to enjoy equal rights as men.

However, as the Preamble of the UN Declaration, the Elimination of Violence against Women mentions, violence against women is a product of unequal power relations between men and women all over the world (Verma, 2009: 188). As per OXFAM (2005:10) estimates, every year around 15000 brides are burnt to death in India and in Bangladesh every week around 10 women face acid attacks. In 2002, 450 honour killings were reported from Pakistan. Thus, the Indian Sub-Continent has been quite prove to all sorts of violence against women, as in this region VAW starts even before birth and continues throughout the life cycle of a woman both inside as well as outside their home. Naved (2004) reported that in 94 per cent of cases of VAW, the perpetrator had been a member of the family. As far as the prevalence of domestic violence is concerned, the UNIFEM (2004) detailed a prevalence of 40 per cent in India, and 55 per cent in urban and 35 per cent in rural areas of Pakistan. In different studies conducted in Srilanka, the prevalence of domestic violence ranged between 32 and 60 per cent. The horrible situation is this that a survey of Judges in South Asia (Coomarswamy, 2005: 473) reported that 48 per cent of the respondent judges perceived it justifiable for men to beat their wives.

The phenomenon of domestic violence mostly continues as 'silent suffering' of females, as the values and norms prevailing in society pushes these 'private matters' to perpetuate secrecy. That's why, as reported by India Safe Study conducted on 10000 women (as quoted by Bhatia and Rajan, 2003: 1658), 58 pr cent of the women who reported partner violence continued to live with the abuser.

Domestic violence actually stems from unequal power relations in a family setting. It takes place 'when one adult in a relationship misuses the power to control another. It is not just hitting or fighting or an occasional argument, it is virtually the abuse of power. The abuser tortures and controls the victim by calculated threats, intimidation and physical violence' (Rao, 2009:106).

This paper attempts at exploring the causes, analyzing the consequences, presenting an appreciative and critical appraisal of the protection of women

from Domestic Violence Act, and finding out the role of social work profession in order to remedy the situation.

Meaning of Domestic Violence

Domestic violence is more than physical abuse, hitting or an occasional argument. It involves willful wife battering by husband with or without injury. It is also understood as a range of sexually, psychologically and physically coercive acts by husband or other intimate relationship. WHO has defined it as the intentional use of physical force or power, threatened or actual against one self, another person or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment deprivation.

Domestic violence was recognized by the IPC as a specific criminal offence in 1983, when Section 498-A was introduced in it. This section deals with the following sorts of cruelty on married women by their husband or his family members:

- Conduct which is likely to drive a woman to commit suicide;
- Conduct which is likely to cause grave injury to the life, limb or health of the woman;
- Harassment perpetrated on woman in order to force her or her relatives to pay more dowry in cash or property; and
- Harassment of woman in case she or her relatives do not yield to the pressures for meeting their demands.

These crimes attract punishment to the perpetrators in terms of 3 years imprisonment and fine.

The Expert Group Meeting of the United Nations (1986) opined that 'violence in the family manifests itself in physical mistreatment, often repetitive, which is interrelated with the excessive of mental torture, neglect of basic needs and sexual molestation. Violence is generally exercised in the closest family unit, where there are dependency relationships, and the result is grave injury to the victim'.

The United Nations Model Legislation includes within the purview of 'Domestic Violence', all acts of gender-based physical and psychological abuse by family member (s) against women in the family, ranging from simple assaults to aggravated physical battering, 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 as “domestic violence” (as quoted by Rao, 2009:107).

According to the National Commission for Women (NCW), “Domestic Violence” means any of the following willful acts committed on a woman by her husband or any of his or her relatives, which –

- Is of such a nature as is likely to drive the woman out of the house or commit suicide or to injure herself, or
- Causes injury or danger to the life, limb or health (mental or physical) of the \ woman; or
- Causes harassment that causes distress to a woman; or
- Compels the woman to have sexual intercourse against her will either with the husband or any of his relatives or with any other coercion; or
- Is unbecoming of the dignity of the woman; or
- Any other act of omission or commission, which is likely to cause mental torture or mental agony to the woman.

The Protection of Woman from Domestic Violence Act, 2005¹ defines domestic violence as ‘any act, omission or commission or conduct that 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 or emotional abuse and economic abuse’.

Thus, the Act covers the following types of abuses/violence, which may be perpetrated on woman:

Physical

- Act or conduct causing pain or harm to the body or danger to life, limb or health;
- An act that causes impairment to the health or development of the aggrieved person; and
- Any act which amounts to physical assault, criminal intimidation and criminal force.

Sexual

Any sexual conduct which abuses, humiliates, degrades, or violates the dignity of woman;

Verbal and Emotional: includes any insult, ridicule, humiliation, name calling; ridicules for not having a child or male child; and repeated threats to physically assault someone close to the aggrieved person.

Economic: it includes

- Depriving the aggrieved person of her economic or financial resources, like such resources as household necessities, *stridhan*, property owned or under joint entitlements, maintenance, and rental payments;
- Disposing of or alienating household assets or movable/immovable property/assets; and
- Restricting her access to resources, facilities or shared house in which she has an interest or entitlement by virtue of the domestic relationship.

'Domestic relationship' has been defined as a personal relationship between two adults in which one provides financial commitment or support of a domestic nature for the benefit of the other. It includes a domestic relationship but does not include a legal marriage. Thus, the Protection of Women from Domestic Violence Act, 2005 provides a comprehensive definition of 'domestic relationship', which includes nearly every relationship in which the aggrieved person might have lived together at any point of time² or in shared households. Under this Act, almost all sorts of domestic relationships are covered including live-in relationships and other relationships arising out of being a member of a family of any nature.

Thus, after the enactment of the Protection of Woman from Domestic Violence Act in 2006, the term 'domestic violence' has been comprehensively defined.

Causes of Domestic Violence

Domestic violence, especially against women can be basically attributed to the status of females in their family and society as also the role sets allocated for them. Any deviation from the approved status and failure to perform the roles inside and outside their household will trigger domestic violence. Verma (2009: 197-200) analyzed in detail the various triggers of domestic violence and found that in most of the cases, violence starts with trifling and once started tends to continue for the whole life. According to him, "gender violence is rooted in the societal power structure. The powerful male tends to torture the powerless female on trivial pretexts". The husbands and their families are in no mood to tolerate and forgive for the even the smallest chook (mistake). An analysis of the factors which cause domestic violence against women has been presented in the ensuing paragraphs.

- i. The Patriarchal Social Structure:** Women in history have been victims of patriarchal sexual practices. Their sexual exploitation by landlords and the powerful has been common practice. This was dire to patriarchal social structure, which produces and nurtures a wrong and perverted sense of manhood and expression of masculinity. Man thinks that he is socially permitted and empowered to do anything and the woman is compelled to fulfill his demands. The patriarchal social structure prepares women mentally, psychologically and emotionally to accept their subjugation and subordination. Thus, 'domestic violence' is a part of this scenario of upholding socially sanctioned norms and practices. It appears that the husbands tends to represent their familial, social, economic and gender related status and power as well as expression of their manhood by controlling and torturing their wives. Masculinity expresses itself in the context of marriage through sexual demands and subjugation of their female partners. And, hence, an atmosphere of male dominance prevailing in society comes out as one of the prominent reasons for domestic violence.
- ii. Culturally Defined Gender Roles:** Husbands' family has culturally defined role expectations from the newlywed daughter in law (*Bahu*), while the newcomer to the household may not be so aware about the prevailing norms, practices and culture of her new family. Therefore, her role perceptions quite often do not match with those of the husband or his family members. Any gap in the perceived and expected roles may cause intimate partner violence that refers to 'disciplining' women, when they do not fulfill gender role expectations (Nandita *et al.*, 2007:71). In reality, young married women often enter households that have clearly defined gender hierarchies and roles (Agarwal, 1995). Domestic abuse and violence may be triggered, if the woman is not able to take up these prescribed roles or objects to carrying out the roles as expected and seeks to change them.
- iii. The Existing Power Relations and the Prevailing Dynamics in the Family:** Violence stems from the general powerlessness of women in the family. Women, especially the new comers, are mostly not involved in the decision making process of the family. They are not free to participate in the decisions even in such matters as their own personal affairs, physical and biological needs, time of first pregnancy and their health and nutrition needs. Sometimes they are not free even to interact with their husbands. If they challenge such an environment, they may have to face humiliation and violence.

The prevailing power structures also create a micro dynamics in the family, which mostly results in creation of a non-conductive environment for the 'new' women. 'A strong linkage exists between gender roles, household's environment and physical and mental abuse of the young married women (Verma, 2009: 201). The patterns of communication prevailing in the household, the pressures of widely prevalent social norms relating fertility and sexuality and the social moves related to marriages dictate the creation of circumstances, which may lead to visible, invisible or camouflaged violence, to threat of penalties for not adhering to set norms and behavior patterns, and to denial of autonomy to couples in exercising options available for their well being. The reactions of the violent and non-violence homes to all these situations and perceived failures may differ, and that goes a long in creation of a conductive climate in the family, which may pave the way for all the members to start a positive dynamics and find new adjustments leading to recreation of normalcy and warmth in the interpersonal relations of the family.

- iv. **Dowry Demand:** After marriage, often the in-laws of the bride are not satisfied with the dowry due to partial fulfillment or non-fulfillment of promises made by her side at the time of settlement of marriage. If the daughter-in-law refuses to negotiate with her parents and bring money/materials from her parental house, the husband/his family starts torturing and harassing her in myriad ways. The growing 'consumerist values' and a craving for fulfilling all modern desires and requirements are the main factors operating behind such dowry demands. Non-fulfillment of the demands results in continued domestic bickering, wife beating, psychological and emotional torture leading to self immolation, suicides, bride burnings and other forms of domestic violence.
- v. **Early Marriages:** A study by IIPS (2006) found that 45 per cent of marriages in India occurred below the age of 18 years. These early marriages place young brides at risk for psychological and emotional torture, mental harassment and physical violence. The adult roles and responsibilities thrust on these girls and 'the associated motherhood adversely affects their physical health and general well being' (Bruce and Clark, 2003). Thus, the repercussions of early marriage and physical violence can compound distress for young married women (Bruce and Clark, 2003; Haberland et.al, 2003).
- vi. **Other Factors:** Domestic violence against women is a historical phenomenon. When we glance at history, we find that they have been abused continuously due to their 'being viewed as property and a

gender role assigned to be subservient to men' (Penelope and Glow, 1994 as quoted by Kaushal, 2009:72). Women have been vulnerable to abuse and violence particularly in such societies in which gender inequality and injustice is rooted in socio-cultural norms as support male dominance and the right of men to control lives of and inflict abuse and violence on their female life partners.

Certain studies (Dhawan, 1999; Purkayastha, *et al.*, 2003) point out to the combination of factors operating at the individual, family and cultural levels, which promote perpetration of violence against women. The distorted concept of manhood, men's over dependency on their partners, fear of rejection, men's history of delinquent and aggressive behavior, heavy drug and alcohol abuse and mental unfitness can be attributed along with women's "battered woman syndrome" as important factors causing frequent occurrence of domestic violence. It has also been seen women lacking in such empowering attributes as education, employment, possession of property, etc. are more likely to face domestic violence. Some personality factors, such as, depression, poor control of impulses, feeling of insecurity, low self-esteem, over aggressiveness and anti social personality disorders have been closely associated with violence against female partners. Low academic achievement, low income levels, and failure to satisfy household needs generates inferiority complex in men which may result in hostility and violence against females in their family. Many a times women's assertion of self-esteem and her desire to be self-dependent or becoming an earning member of the household also cause discord, dispute and domestic violence. NFHS-III (IIPS, 2007) found 56 per cent of the women respondents believing that violence is justified in case of disobedience in laws, etc.

Thus, there are multiple causes are behind the occurrence of family disputes and domestic violence. It is the interaction of various variables that is responsible for spousal violence. No single factor can be attributed occurrence of domestic strife.

Consequences of Domestic Violence: An Analysis

Worldwide, women's human rights are violated by denying them freedom to live their life without fear and frustration. Domestic violence impacts adversely the health and wellbeing of women folk. The World Development Report (UN, 1996) mentions domestic violence as a significant cause of disability and death. It causes around one-fourth attempts to suicide by women (Stark *et al.*, 1979). It perpetrates the subordinate position of women in society and they have to live a life of misery, fear and helplessness. It results in unequal distribution of power and resources between men and women. This inequality has devastating effect on not only the victim, but also their

children. Their children are at a higher risk in terms of health, school performance and behavioral disturbances. Thus, domestic violence involves serious economic, social and health related costs. A detailed analysis follows:

- a. **Health Related Consequences:** Domestic violence has adverse effect on women's physical, mental, psychological, sexual and reproductive, and spiritual health; it also results in loss of life. The incidence of unwanted pregnancy, complications, miscarriage, unsafe abortions, STDs/RTIs, HIV/AIDS, and maternal mortality shoots up. A World Bank study reports that in developing countries, rape and domestic violence together account for loss of 5 per cent of the healthy years of life of a woman. Domestic violence results in bruises, fractures, cuts, burns, stab wounds, chronic pain, gastrointestinal disorders, injuries to the internal organs, headaches, asthma, permanent disabilities, acid burns, etc. It also affects mental health of women and may cause them psychiatric problems. They generally suffer of traumatic disorders, phobia, anxiety, depression, and suicidal tendencies and fall prey to drug/alcohol abuse. They are emotionally disturbed, have poor self image and low self-esteem, and face mental stress. Many a times, domestic violence has fatal consequences, like suicide, homicide, high infant child and maternal mortality rates, etc. Thus, domestic violence has long lasting adverse effect on health of women and children.
- b. **Economic Consequences:** Domestic violence is a burden on economy, as it leads to a decrease in efficiency and productivity of human resources, on the one hand; and on the other, results in draining of scarce resources to arranging for the care of victims and expansion of services in the healthcare system due to severe health consequences as discussed in sub-section (a) as per a WHO Report³, 'violence against women puts an undue burden on health care services with women who have suffered violence being more likely to need health services and at higher cost, compared to women who have not suffered violence'. Violence of any sort obstructs participation of people in development process. It contradicts the goals of economic growth and the economy has to pay a heavy cost of violence in society. Domestic violence has such economic consequences as reduction in family income, increase in health and medical costs, absenteeism, non-involvement in the job due to increased stress and anxiety, low productivity, higher rates of accidents, increased expenditure on compensations, etc. According to a World Bank Report, around one-fifth of the available workdays are lost by women in India as a result of health problems arising from domestic violence. Legal and police

action against the perpetrators also causes heavy financial loss to them as well as loss of employment.

- c. **Violation of Human Rights:** Threats, humiliations and physical aggressions by men against the female partners are basically indicative of the violation of women's fundamental constitutional and human rights. Any restriction on the freedom of women and girls puts a ban on women's right to life, liberty and security as well as their right to just and favourable conditions of work (Article 6, 7, and 9 of the International Covenants on Civil, Political, Economic, Social and Cultural Rights). It also leads to discrimination against women, which is banned under Articles 16 and 26 of the International Covenant on Civil and Political Rights.

Thus, domestic violence has multifarious and disastrous consequences on the stability of the institution of family, which has far reaching implications for the well being of men, women and children in the family.

Domestic violence results in physical, emotional, psychological and mental harm to the victim. The victim loses her freedom to life and a living without fear and according to her own will. She has to undergo an extraordinary psychological and emotional pressure, which may result in poor self image, depression and even suicide. Thus, it is detrimental to victim's general health and welfare. Besides these physical, psychological and emotional consequences, the infliction of domestic violence also causes obstruction to all-round.

Psycho-social and physical obstruction in people's participation in development process results in non achievement of goals and targets, which undermines the growth rate of our country. Thus, domestic violence is an avoidable phenomenon.

The Protection of Women from Domestic Violence Act, 2005: An Appreciative Overview

Due to inadequacy of the provisions of the IPC (Section 304A and 498A) in protecting women from atrocities committed against them inside the four walls of houses, as a felt need, the Bill on Protection of Women from Domestic Violence was introduced in the '*Sansad*' in 2002. The Bill was passed on September 13, 2005⁴ to be effective from 26th October, 2006. This Bill had been prepared keeping in view the guidelines emerging on the issue at hand from various International Conventions and Declarations, such as, the Vienna Accord 1994, the Beijing Declaration and the Platform for Action 1995, and the CEDAW (in its General Recommendation No. XII), 1989. The main objective of the Act is "to provide more effective protection to the rights of

women guaranteed under the Constitution, who are victims of violence of any kind occurred within the family and for matters connected therewith or incidental thereto”.

The Act, besides defining the terms like, ‘domestic violence’, ‘aggrieved person’, ‘respondent’ etc, clarifies the roles of various functionaries, such as, Protection Officer, Service Providers, etc. and deals with reliefs and remedies (under the Act), i.e. protection order, custody order, monetary reliefs, and the procedures to be applied under the Act. The Act provides for appointment of NGOs as service providers to assist an aggrieved person in terms of medical examination, legal aid, safe shelter, etc. It makes provision for penalties, for breach of protection orders or in term protection order by the respondents, as a cognizable and non bailable offence punishable with imprisonment.

The Act lays down the duties of police officers, protection officers, and other service providers to provide social remedies to the victims of domestic violence. Under the Act, information about the domestic violence can be lodged by “any person who has reason to believe that “such an act has been or being committed. Any person includes neighbours, social workers, relatives, etc. (Chapter III-Section 4). The court may order under the Act that the aggrieved women will stay in the same house (Chapter IV - Section 17). The respondent can also be restrained from attempting to communicate in any form, whatsoever, with the aggrieved person, including persona, oral, written electronic or telephone contact”. The respondent can also be restrained from entering the room/area/house that is affected to her by the court. The Act allows the magistrate to impose monetary relief and monthly payments of maintenance. Section 22 allows the magistrate to make the respondent pay compensation and damages for the injuries including mental torture and emotional distress cause by acts of domestic violence. Section 31 provides for the guilty an imprisonment of one year and a fine of Rs. 20,000/-. Section 32 (2) provides that on ‘the sole testimony of the aggrieved persons, the court may conclude that an offence has been committed by the accused. The Act also makes arrangements for provision of speedy justice in such cases. The Act also makes provision for the penalty for not discharging duty of protection officer. An important feature of this law is that it ensures that an aggrieved wife, who takes recourse to the law, cannot be harassed for doing so. The respondent party cannot prohibit/restrict the wife’s continued access to resources, facilities and the phased household. Under section 18-23, the Act provides a large number of avenues for an abused woman to get relief. She can get relief through the court, protection orders, residence orders, monetary relief, and custody order for her children, compensation order and interim/ exparte order.

Thus, useful provisions have been made in the Act to protect women from violence against marital partners. However, certain sweeping provisions made in the Act increase the probability of its misuse, which has been discussed in the next section of the paper.

The D.V. Act 2005: A Critical Overview

Despite all the laudable provisions made in the Protection of Women from Domestic Violence Act, there is no denying the fact that it is inherently unequal and has no fate than to become a weapon for harassment of man (Hindu, 2006). According to Dua (2009: 252), “a careful analysis review that, under the ploy of “women and children welfare”, this law is yet another misguided attempt to enact legislation to grant women legal supremacy over men and to create a society where men are deprived of their rights”. In this Act, the definition of domestic violence is too comprehensive to make it nearly impossible to decide about the genuineness of the complaint lodged under the Act. As this Act recognizes that only men are the perpetrators of violence and that only the women may be victims, the male can be easily victimized, without any sort of protection provide for the innocent males. It has been proven by several studies (such as Holye, 1998) that women are no less abusive than men in intimate relationships. Therefore, such legal provisions may lead to systematic and codified vulnerability of men.

In the western world, laws against domestic violence are gender mostly neutral and provide protection to the aggrieved, whether it be male or female. On the other hand, the D.V. Act is liable to be easily misused by the women, who on any scale, cannot be labeled as ‘powerless, innocent and vulnerable’. More so, when under section 32 (2) of the Act, the (so called) victims ‘testimony in the court has been recognized as gospel truth, the erring women have been empowered to teach lesson to the husbands who refuse to fully surrender before them and fulfill all their legal / illegal demands. A similar trend is already observed in the cases lodged under section 498A of the IPC, where conviction rate is only 15 per cent. In the rest of the cases the legal provisions meant to protect women are being misused⁵ to the extent that the Supreme Court has termed it as ‘legal terrorism’. In the same way, the D.V. Act may be misused as under this Act complaint lodged is treated as “true and genuine”. And it is mostly that the innocent husbands are accused and implicated in false cases, just because they refuse to fulfill wife’s unreasonable demands or raise objections to her extra marital and illegal contacts. Any law that forcefully subjects a section of society to conduct as per the pleasant of another section is deemed oppressive and should be vehemently opposed (Dua, 2009: 254) Khan and Singh, 2009’ 157). Another criticism of this law may be based on the ground that in defining domestic violence, it seems affected by the radical

feminist who claims that most of women face domestic atrocities. Thus, the law promotes intolerance and litigation on petty domestic disorders, which will increase the incidence of breakdown of marriages on trivial issues. Therefore, provisions for stagnant punishment should be made in case of its misuse.

Certain other flaws visible in the Act are as follows:

1. Though the Act defines under section 2 (b) as to who is aggrieved for the purposes of this Act, it is nowhere clear whether the child may also be an aggrieved party. In England, the domestic violence legislation applies to children also.
2. There is no protection of the parties in dispute against media activism, which may cause irreparable damage to them by over publicity (as in case of Media Watch Group vs. Union of India⁶).
3. Chapter IV, section 16 of the Act allows the Magistrate to hold case proceedings in camera (if both parties agreed). Sometimes these in camera proceedings have tended to intimidate the aggrieved / the respondent party. So, certain steps are needed to be taken in this direction in the interest of justice.
4. With regard to the notion of “emotional abuse, in results, and verbal abuse” as included in the Act under the definition of Domestic Violence, these terms are quite relative and subjective. It depends on the nature and mindset of the aggrieved person as how she reacts to it. Also, the husband and his family members do not have any resource, in case it is misused by the wife or her near and dear ones.
5. The Supreme Court recently mentioned that the definition of ‘shared household’ as given in the Act is vague. The court lay that the parents’ independent property in which the husband does not have any share will not be treated as ‘shared household’.
6. The Act almost gives legal sanction to any relationship, which is not socially acceptable, like live in partners, former girl friends, and divorced wives. Now none of these and even a woman have open extra marital relations, may not be thrown out of home. On the other hand, these women may exploit the males by threatening to lodge a complaint under the Act, even as nothing could actually have happened.
7. Conjugal relations are based on sex. This Act accepts the concept of marital rape. One of the provisions of the Act even bars the husband from asking for sex. On the contrary, denial of sex is a legal base for

seeking divorce, as it deemed to a cruelty. The non- resumption of sex relationship leads to permanent estrangement between the spouses. Also, the Act prohibits the husband from any sort of communication, if there is any prima facie case. By implication, this provision narrows down the chances of any reconciliation between husband and wife. In fact, reestablishment of husband-wife communication is a must for breaking the ice.

8. It is practically impossible for any magistrate, because of the overcrowding of cases in Indian Courts, to finish hearing of the case within six months of the case reaching the court (as is provided in section 12 (4) of the Act.

However, despite the entire shortcomings, this law was the felt need of the country in view of the growing incidence of family disputes and the resultant violence. It provides a mid-way between the women opting to keep on suffering and the draconian section 498A. By resorting to section under this Act, a woman can get the relief required to stop violence against her, but in due course of time may find a reconciliation and readjustment in the family without resorting to seek divorce. It is upto the aggrieved person to utilize the provisions of the Act in a way that the marriage is saved in the process of seeking recourse to domestic violence.

Suggested Remedies and the Role of Social Work Profession

Though this Act does not create any scope for awareness generation; for strengthening family as a social institution; for providing chances to the erring side, especially the husbands, for improvement; and for leaving any space for mutual reconciliation, it is supposed that the Act would be instrumental in ending the age old concurrence of varied sorts of neglect and abuse, threat of abuse, and the brutality meted out to women. Of course, there are chances of its grave misuse and the unhindered application of this Act may lead to breaking down of many homes, but given the historical insensitivity of the society and its institutions about the issue of domestic violence and gender abuse, there is dire need to launch a campaign to create a sensitive and responsible society, so that the oppressed and the 'really aggrieved women' are socially protected and there is no need for them to resort to the provisions of this Act. This would require a complete change in the male dominated social structure and the whole psychology and the mindset of people.

Social workers may ably take up such a daunting task and work as catalyst to bring the desired change. In this effort, they must liaison well with the relevant social structures, support systems, service delivery systems, governmental and nongovernmental organizations/institutions as well as

all the organs of society, political structures and the women's activist groups, etc. so that an effective campaign may be launched to achieve a societal change and creation of gender sensitive social, economic and political system meant to achieve gender justice for both women and men.

Instead of treating cases of domestic violence as trivial, we should show zero tolerance to its occurrence by members of any community of India. If a woman comes out for seeking recourse to domestic violence, we should, instead of blaming her for over reaction, praise her for showing courage to fight this menace. In the same way, if a woman, after opting to take recourse, in due course, changes her mind and wants to reconcile with her husband/family members, the social workers/other activists should not pressurize her or insult her, but rather help her in finding a just, meaningful and stable rapprochement and reconciliation with her in-laws.

The Social workers, engaged in this field, should take appropriate measures to ensure that all the necessary steps are taken as per the existing laws and procedures and during the process, the aggrieved women does not face any harassment and exploitation at the hands of the official machinery. He should work for the effective execution of all the clauses of the D. V. Act as per the requirements of the case. In case of the previous criminal history of the accused, the social workers have to take extra precaution about the Safety and security of the aggrieved women. They should also ensure that the evidences and objects that may used as proof in the court, are not destroyed by the abuser.

However, it must be remembered that the real solution of all the problems faced by women is their all round empowerment. As social work is an empowering profession, the professional social workers ought to take all the steps required to be taken in the execution of the empowering process (for details, see Verma, 2006: 321-34; 2007: 16-31). Efforts are needed to achieve empowerment of women through reigniting awareness about their rights and duties as enshrined in the Constitution; about their human rights; about their rights under various pro-women and women specific legislations; about their inheritance rights; and regarding the availability of support services in case of perpetration of domestic violence. Agency-client linkages also need to be established in order to arrange for them legal literacy, employment opportunities, credit support, and counseling in order to rebuild their lives by providing them mental peace and psychological recovery from the traumatic experiences.

The Social workers should also work for creation of an anti-violence atmosphere in the society. Mobilization of the local community against domestic violence and creation of the social mindset of non-tolerance of any

sort of abuse and violence perpetrated against women in side any household, may go a long way in achieving a non-violent social order based on gender justice. People should apply social pressure and if even then the domestic violence does not stop, the social workers must motivate and counsel the aggrieved party to take legal resource under the D.V. Act and, if needed, under other laws and the provisions of the IPC.

In the process, appropriate role of corporate sector, NGOS, women's self help groups, media, religious leaders, professionals and scholars, etc. must be explored in this sector. All the efforts should be made in a co-ordinated manner, so that the occurrence of domestic violence is reduced to a reasonable limit and there is hardly any need to resort to taking recourse under the provisions of various legislations and to undergo the unpleasant experience of litigation.

Appropriate training for sensitization of judicial and police officers is needed so that they are well aware of the dynamics behind domestic violence and are able to take the best decisions in order to promote creation of a gender sensitive society. Social work educators and the institutions may also play important role in this field.

The social work professionals will have to adopt a "multi-layered strategy that addresses the structural causes of violence against women, while providing immediate services to the aggrieved person, and also ensure sustainability" in order to eliminate this scourge (Bhartiya, A.K, 2009:180; Verma, M.M., 2009a:230-49).

Conclusive Remarks

Domestic violence and its acceptance by women and society stems from an acceptance of the prevailing gender hierarchy and gender insensitivity (Verma, M. M., 2009b:203). Hence, the social systems, traditions and cultural practices, which perpetuate the system of male dominance, need to be questioned at all the relevant fora. Violence against women, more particularly domestic violence, generates in females a sense of fear and insecurity, which adversely affects their mobility, growth, development and overall achievement and performance levels. For a person to lead a satisfying and fulfilling life, a higher level of achievement motivation and performance is required. The higher the achievement and performance, the higher tends to be the level of satisfaction with life, which is the key to human happiness. Domestic violence, thus, proves to be the greatest hurdle to human happiness, especially that of women. It is, thus, against the very concepts of equity, human security, human rights and democracy. However, it must be kept in mind that for control of this menace, we need to make a deep study of the particular

causative factors and the underlying dynamics of various sets of variables; and on the basis of a scientific analysis, appropriate strategy will have to be devised for various communities, societies and the nations.

The profession of social work has the capacity and tendency to adopt a need based approach as per the specific requirements of the situation. It adopts variable strategies as may be in the best interest of the clients and their associated systems. Hence, giving appropriate roles to the professional social workers to find adequate and effective solutions to the problems arising from occurrence of domestic violence, may be beneficial and may lead to establishment of a gender sensitive, balanced and responsible society, ensuring for both men and women, justice- social, economic and political and liberty of thought, expression and action, which will multiply the probability of achieving global happiness and prosperity.

Notes

1. The Protection of Women from Domestic Violence Act, 2005 actually became effective from Oct. 26, 2006.
2. Explanation I (iii) of section 3 of the Protection of Women from Domestic Violence Act, 2005.
3. WHO Face Sheet on Violence against Women.
4. The Protection of Women from Domestic Violence Act, 2005; The Gazette of India, Extraordinary part II, Section I, Ministry of Law and Justice; 13 September, 2005.
5. (a) Every year around 4000 senior citizens (including females) are arrested under IPC Section 498 (a). (b) The WHO has also cited this section as one of the main reasons for the increasing Elder Abuse in India (www.savefamily.org).
6. 2001, INDLAW DEL 1180, 2001 (91), DLT 110.

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