CHAPTER-7

CONCLUSION AND
SUGGESTION
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"Half of the Indian population are women. Women have always been discriminated against and have suffered and are suffering discrimination in silence. Self-sacrifice and self denial are their nobility and fortitude and yet they have been subjected to all inequities, indignities, inequality and discrimination."

The companionship is the basic requirement of all the human beings, as no man or woman is complete without each other. Man and woman are two halves of humanity. Neither can reach its highest creative excellence without the co-operation of the other. But gender discrimination is the way of life almost all over the world, particularly so in India. A tendency of offending the feelings of woman is continuing since immemorable time. All history attests that man has subjugated women to his will, used her as a means to promote his self gratification, to minister to his sensual pleasures, to be instrumental in promoting his comfort; but never has he desired to elevate her to that rank she was created to fill. Women have been victims of violence and exploitation by the male dominated society all over the world. They are placed at various disadvantageous positions due to gender differences and bias. Among all the relationship, the relationships inside the family are the thickest as well as the most informal. Even the most respectful, decent, dignified and gentle people outside will reveal their true nature inside the home. Thus, the chances of conflicts, discrimination, gender bias and violence are common inside the home specifically against the women. Among all types of violence against women ‘domestic violence’ is the most serious offence because it happens silently within the four walls of the home. Domestic violence against women is an age old phenomenon. Women were

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4 Supra note 1. at p. 44.
always considered weak, vulnerable and in a position to be exploited. Domestic Violence has long been accepted as something that often happens to women. Family which was perceived as an arena of love, affection, gentleness and centre of solidarity and warmth has now become a centre of exploitation, assault and violence ranging from slapping, hitting, homicidal assault by one member of the family on the other, harassment for dowry or for any other reason. Dowry death, wife battering, female child abuse and abuse of elderly female in the family are also included in the domestic violence against women.\(^9\)

Among the many manifestation of the violations of the fundamental rights of women, domestic violence is one of the most vicious because it takes place behind the closed doors, the very doors which are meant to protect women from the hazards of the outside world.\(^10\) Domestic Violence is essentially a issue of personhood of women whether in her matrimonial home or in her parental home. The issue deals with all forms of violence against women in all the roles they play in family i.e. daughter, sister, wife, mother, mother-in-law, daughter-in-law or sister-in-law. This issue of domestic violence must come out of the closet and be addressed.\(^11\)

The UN Declaration on the Elimination of Violence Against Women defines violence against women as “……. any act of gender based violence that result in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.” Thus this definition defines violence as an act that cause or have the potential to cause harm, and emphasises that these acts are rooted in sex inequality.\(^12\)

In practice, the term violence against women encompasses an array of abuses targeted at women and girls, ranging from sex-selective abortion to the abuse of elderly women.\(^13\)

Violence typically refers to a physical act, aggression, frequently refers to any malevolent act that is intended to hurt another person. The hurt may not only be

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\(^9\) Supra note 7, at p. xv.
\(^10\) Ibid.
\(^11\) Ibid., at p. xxiv.
\(^13\) Ibid.
physical but may be emotional injury or material deprivation. Infliction of injury on the other people is the essence of violence. It may be either physical or mental. Broadly speaking ‘violence’ lies in the power dynamics of social situations. It is not simply aggression or injury committed by one individual i.e. man, against another individual i.e. women, but is more precisely the abuse of power i.e. a behaviour in which a more powerful person takes advantage of and abuses a less powerful one.

There is no universally accepted definition of violence against women. Some human rights activists prefer a broad based definition that includes “structural violence” such as poverty and unequal access to health and education. Other has argued for a limited definition in order not to lose the actual descriptive power of the term. If we take violence as conduct which incurs the formal pronouncement of the moral condemnation of the community or the deviation from conduct norms of the normative groups, the scope of cases of ‘violence against women’ becomes too broad. Narrowly, the term ‘violence’ has been applied to “physically striking on an individual and causing injury” to “the act of striking a person with the intent of causing harm or injury, but not actually causing it,” to “act where there is the high potential of causing injury” and to “act which may not involve actual hitting, bit may involve verbal abuse or psychological stress and suffering.”

Thus violence can mean, among other things: threats, intimidation, manipulation, isolation, keep a women without money, locked in, deprived of food, or using or abusing her children in various ways to frighten her or enforce compliance. It can also include systematic and belittling comments. In India feminine glory was at its zenith in the Vedic period, after which it suffered a decline. After independence though, Constitution of India assures for all dignity, equality, freedom but they have been systematically denied to women and they are subjected to all inequalities,
indignities, inequality and discrimination. Many times the worst form of violence that is being committed against women are usually not done by strangers but by their own near and dear in family relationship.

Domestic violence against women is an extremely complex and vicious form of abuse, committed most often within the four walls of the family house and/or within the deep rooted power dynamics and socio-economic structure which do not allow even the acknowledgement or recognition of this abuse. It could result in anything from death to minor scars, there could be a situation where this violence results in neither but causes devastating psychological impairment. It is violent victimization of women within the boundaries of family usually by men. A woman may be of any age can be subjected to this type of violence irrespective of her caste, colour, status, religion, occupation, education etc. Woman is discrimination from womb till her death. In majority of cases, acts of violence against women are committed by the members of the house where she resides, it can be the husbands, his parents or siblings or any other resident who has overt or covert latitude for action that can cause physical or mental agony to the women. It happens behind the closed doors and is most often denied by the very woman who has been the victim of violence because of so many reasons. The range of acts which could constitute domestic violence has also been addressed by the criminal laws and civil laws. Need of a special law was felt to sternly deal with the problem of domestic violence against women and after long debates the Protection of Women from Domestic Violence Act, 2005 was passed by the Parliament. The passing of the Domestic Violence Act, 2005 is an important milestone in the history of the women’s movement in India, which has confronted the problem of domestic violence for well over a long time. The Act is significant because for the first time the term ‘domestic violence’ has been widened in meaning and scope from the cultural specific restriction of ‘dowry deaths’ and penal provisions to positive civil rights of protection and injunction.

This Act is comprehensive and looks at the specific needs of women in different relationship and does not discriminate between women who are married or single whether the perpetrator of violence is a husband or a father. This revolutionary

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21 Supra note 6, at p. 164.
22 Supra note 2, at p. 50.
23 Id., at p. 51.
legislation seeks to deter domestic violence in all its form against women, including harm or injury i.e. mental or physical including sexual abuse, verbal abuse, emotional abuse, economic abuse for demand of dowry or for any illegal purposes and causes like inability to bear a child or a male child.

The need for present legislation arose as the existing criminal and civil laws do not address the phenomenon of domestic violence in its entirety. The scope of the term “domestic violence” has now been widened by providing a liberal definition which includes actual abuse or the threat of abuse that is physical, verbal, emotional or economic. This definition covers the entire gamut of violence within the household including harassment ensuing out of unlawful dowry demands to the women or to her relations.\(^\text{25}\) The term domestic violence under Domestic Violence Act embraces all acts that are committed within the family by any of its members, which seriously harm life, body, psychological integrity or liberty of women of the family.

It is imperative to find out as to what was the legal position in domestic violence cases prior to the introduction of this new law so that it can be examined as to what is new about this additional measure. The Constitution of India provides many safeguards to women and their rights are protected by various Constitutional provisions. The state has enacted many women specific and women related legislation to protect women against social discrimination, violence and atrocities and also to prevent social evils like child marriage, dowry, practice of sati etc. The Hindu Marriage Act, 1955, the Dowry Prohibition Act, 1961 the Commission of Sati Prevention Act, 1987, the Indecent Representation of Women (Prohibition) Act, 1986, the Immoral Traffic (Prevention) Act, 1950, The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 etc., have been passed to deal with various forms of violence against women inside or outside the home.\(^\text{26}\)

Criminal Law in India is the major tool which provides the protection to the women from various form of domestic violence. Hurt, grievous hurt, wrongful restraint, wrongful confinement of the spouse, marital rape, dowry deaths,


\(^{26}\) Supra note 16. at p. 50.
matrimonial cruelty against women etc are some of the worst forms of domestic violence which are addressed by the criminal law.

In spite of all these protective legislative provisions and pro-women legislations, violence against women, in India continues to rise every year. These various legislations including criminal justice systems have in many ways failed to protect the women from domestic violence.\(^{27}\)

The ever present fact of violence both overt and covert physical and non-physical form has an overwhelming influence on feminine identity formation. Violence is now a part of women’s life, be it in any form or kind and be she in her parental or matrimonial home. A female life may be sniffed out even before she is born. She may be dumped or abandoned after she is born. Female child is also likely to become the target of other form of assaults.\(^{28}\) Early childhood is an important and delicate period in an individual’s growth and development. Deficiencies during this stage lead to permanent retardation in physical and mental growth.\(^{29}\) The Girl Child is the first and foremost need of humanity because her survival is essential for the continuation of the species. To kill her means to kill coming generations. But the practice of destroying female foetus due to preference for male child is prevalent in many parts of India despite having so much religious, social, and legal prohibition. A lifetime of systematic gender bias for the girl child begins in the mother’s womb itself. While the Indian Constitution guarantees right to life and personal liberty, but how far is this right available to the Indian girl child is a vexed question. In female foeticide girl child is prevented from taking its birth and in female infanticide a child is killed after it takes birth. In both cases the object is one and the same i.e. take the life of a female child which is one of the worst forms of violence against women in general, wherein a women is denied her most basic and fundamental right – “the right to life” enshrined in Article 21 of the Indian Constitution.\(^{30}\) The most inhuman, uncivilized, barbaric and tragic event is that it is still taking place silently in India.\(^{31}\)

\(^{27}\) Id., at p. 51.
\(^{29}\) Supra note 7, at p. 76.
\(^{30}\) Supra note 7, at p. 87.
Incest is another form of domestic violence which remain most secret and which subsists commonly than imagined. It is defined as sexual intercourse between close relatives within prohibited degrees of relationship and also includes real or artificial relationship which though not of blood or culturally sanctioned such as God parents, step parents, or rakhi sister etc.\(^{32}\) This type of violence against female child is one of the most ghastly crimes that threaten the fabric of family life. It is highly sensitive subject which was always kept in the dark usually by all the families. Incest is on the rise not only in the west but in India as well despite having forbidden by laws and by almost every religion.

Marriage continues to be universally regarded as essential for a girl, irrespective of class, caste, religion and ethnicity.\(^{33}\) But it is very paradox of our contemporary times that on the one hand, marriage is very cherished and fond dream of young women, yet the cruelest and heinous crimes/atrocities, such as rape, wife battering, cruelty, dowry deaths and harassment etc occur within the four wall of the matrimonial home.\(^{34}\) In India, most of the marital violence is clubbed under the overall heads of dowry, dowry death, and dowry violence. This categorization glosses over the other causes of violence which pervade the familial context. It is one of the major factors responsible for domestic violence against women.\(^{35}\) The evil of dowry becomes so pernicious that a large number of women are being murdered, burnt or assaulted every year on the altar of dowry.\(^{36}\)

Cruelty is a part and parcel of domestic violence and is a ground for dissolution of marriage under all the personal laws in India. The expression ‘cruelty’ taken within its sweep both mental and physical agony and torture. The term cruelty in criminal law is well defined with precision and certainty, but the legal conception of cruelty and the kind of degree of cruelty necessary to amount a matrimonial offence has not been defined under the matrimonial laws.

Wife battering which may be defined as willfully striking a women by her husband with or without injury, is, a most common form of domestic violence against

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\(^{34}\) State (Delhi Admin) v. Laxman AIR 1996, SC 250.


women which poses a threat to the quality of women’s lives in nearly every class, caste, religion, culture and society. It has been shrouded in secrecy, guilt and shame on the part of the victims.

Elder women abuse is also a form of domestic violence which remains largely hidden like other form of domestic violence. Victim of elder abuse are reluctant to share their experience with those outside the family, as they are sure that long term outcome of this would not be in their best interest. It can be defined as conduct that results in the physical, psychological or mental neglect, harm or injury to an elder. Isolation, abandonment and social exclusion are some forms of the abuse of elderly one come across.

Besides elder women, widows are the most vulnerable due to sudden change in their socio-economic status with the death of their husband. Widows are neglected even in the category of women because of the social stigmas attached with the widowhood. Widows have to face different forms of discrimination in the domestic relationship.

Thus domestic violence against women takes place in myriad forms against all women irrespective of her age, caste, religion, class, cultures, etc. In India the phenomenon is mainly viewed as an outcome of male patriarchal society. Most often it is hidden crime committed within the four walls of the homes and go unreported. The poor victims of domestic violence suffer in silence, considering as their fate accompli. Often they fear social stigma, involvement of family prestige, financial dependency, future of children, attachment of religious sentiments etc because of which to remain silent, then to make such acts public. In spite of having large number of legislations to combat violence against women, the incidence of violence continue unabatingly.

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38 Supra note 7, at p. 186.
40 Empowering the Old, The Tribune June 15, 2011.
42 Ibid.
The women’s status is the measuring yard for assessing the standard of culture and society of any age.\textsuperscript{44} In India, the history speaks that women are considered as a divine force but the multi-cultured Indian society placed the women at different position.\textsuperscript{45} The position of women in India from pre historic time to the present day indicate the general lines on which they have confronted with various types of humiliation, torture and exploitation. There is no uniform status of women in the Indian society.\textsuperscript{46} However, civilization showed the overall upliftment of women’s position. In Indian society there have been infinite variations in the status of women according to the cultural malices, family structure, class, caste, property rights and morals.\textsuperscript{47}

The highest place has been accorded to the women in Indian religious and philosophical thoughts. The Indian philosophy poses the women with dual character. On the one hand, she is considered fertile, patient and benevolent but on the other hand she is considered aggressor and represents ‘Shakti’.\textsuperscript{48}

The position, power, status and disabilities of the daughter, the wife, and the widow went on changing in course of time. Women once enjoyed considerable freedom and privileges in the spheres of family, religion and public life, but as centuries rolled on, the situation went on changing adversely.\textsuperscript{49} The position which women occupied in Hindu society at the dawn of civilization i.e. the Vedic age, is much better than what we ordinarily expect it to have been.\textsuperscript{50}

The position of women during the Vedic period was glorious on account of freedom and equality. During that period, women enjoyed a fair amount of freedom and equality with men. A woman was regarded as an equal partner, friend, and equal sharer in joys and sufferings of her husband’s life in Vedic era.\textsuperscript{51} The birth of daughter was not less welcomed in the Vedic age in comparison to the son because of

\textsuperscript{44} Misra, Rekha. ‘Women in Mugal India’. 1967. p. 1.
\textsuperscript{46} Supra note 44. at p. 1.
\textsuperscript{47} Supra note 45. at p. 1.
\textsuperscript{48} Ibid.
\textsuperscript{50} Id at p. 337.
the equal status given to them to offer scarifies to gods.\textsuperscript{52} The period before marriage was utilised for imparting education to the girls for which the ‘Upanyan’ or the Ceremonial initiation into Vedic studies was as common in the case of girls as it was in the case of boys.\textsuperscript{53} Child marriage was unknown in early Vedic period, girls were married at a fairly advanced age in that period. Even in the Rig Vedic age, marriage does not appear to have been compulsory for girls. They could grow old in their parent's houses without public censure.\textsuperscript{54} In the Vedic period monogamy normally prevailed in the Hindu Society. The word ‘dampati’ i.e. ‘two joint owners of the household; excludes a third person from the conjugal life.\textsuperscript{55} Purdah system was also not prevalent in that period. Widow remarriage also prevailed in Vedic society but it is used to take place not infrequently in the Vedic age.\textsuperscript{56}

The position of women on the whole was fairly satisfactory in the Vedic age with few exceptions. But during the later Vedic period, the women had suffered drastic hardships and restrictions. The main reason for declination in their position was the development of certain eschatological notions which led to belief that sons alone were competent to redeem their parents from the hell and daughters were incapable of performing these spiritual functions. As these ideas began to take root, women were valued only as the vehicles for bearing sons and when they were unfit for or unwilling to perform this function, they were considered as useless. This whole idea about the position of women is emphasised in the Atharva Veda, the Brahmanas and the Upanishads.\textsuperscript{57}

In general the Brahmana texts are more unfavourable towards women what with their ideas of ceremonial purity and the omnipotence of rituals and sacrifices. In the Sathpatha Brahmana among other various restriction on the wife, it is told that a wife who is disobedient enjoined to be taught obedience by physical force. The Maitryani Samhita places women on at par with dice and drink, whereas Taitraya Samhita describes her as inferior even to a bad man.\textsuperscript{58}

\textsuperscript{52} Supra note 49, at p. 8.
\textsuperscript{53} Id., at p. 200.
\textsuperscript{54} Id., at p. 90.
\textsuperscript{55} Id., at p. 104.
\textsuperscript{56} Id., at p. 150.
\textsuperscript{58} Macdonell and Keith, ‘The Vedic Index’. V. II. 1912, pp. 485-486.
In Upanishads there are references, which clearly indicate that the equal social and religious status was allowed to the boy and girl but due to certain economic and social reasons a son was desired.\textsuperscript{59}

Manusmriti is the most important source of the post-Vedic period, which represents the Hindu life and culture of that time. It is Manu’s Code that has had the most negative effects on Indian Women for countless succeeding generations.\textsuperscript{60} Manu enumerates many laws directing a woman’s conduct in different stages of her life toward husband, family and society. He attempted to set up male dominated society by increasing the authority of men over women. As a result of which woman had suffered drastic hardships and restriction as propounded by Manu.\textsuperscript{61} But his laws reflect conflict even within him regarding his valuation of women as a spiritual entity on the one side and as a unit in society on the other.\textsuperscript{62} Raising the women upon a magnificent pedestal Manu presented her as the source of all good, for the adoration of man; then brutally throwing her down from the height where he had himself placed her, he saw in her the genus of evil and cast her at the feet of a master.\textsuperscript{63} On the whole it can be said that some negative statement occur in the Manusmriti against women, but he has also tried to give respectable status to woman in the society. Thus the laws of Manu show various attitudes, both appreciative and depreciative, toward women. From some of his critical statement regarding women one should not conclude that he hated women.

About the Epic period, it can be said that the two great Epics i.e. Ramayana and Mahabhrata still exert a great influence on the life and mind of people in India. The women characters of the Epics have been held as ideals by Indian women. These epics highlight the fact that many attitudes towards women were found in that period, which are still prevalent in the present time. There are many teachings of Vedas or Puranas regarding the womanhood which are reaffirmed in the Ramayana. But when it is compared with the earlier traditions, it shows a general degeneration of the position of women.\textsuperscript{64} The women as depicted in the great Epic Mahabharata preserve their independence in thought as well as in action. But Mahabharata also traces the

\textsuperscript{59} Supra note 7, at p. 12.
\textsuperscript{61} Supra note 45, at p. 2.
\textsuperscript{62} Supra note 7, at p. 13.
\textsuperscript{64} Supra note 57, at p. 187.
story of the fall of the status of women in the Hindu Society. It also deals with various
types of societies, which show vicissitude in the status of women.\textsuperscript{65}

During the Buddhist period there was a change in the position and status of the
women. Women came to enjoy more equality and greater respect and authority in the
male dominated society than ever hitherto accorded to them. Although their activities
were confined within certain spheres, principally the domestic, social and religious
but there position in general began to improve.\textsuperscript{66}

The rights of freedom and honour enjoyed by women in pre-mugal period
gradually dwindled in social sphere with the establishment of Muslim rule in the
Indian region. The Muslim dominance of India led to the general increase in the
miseries of the women.\textsuperscript{67} Due to insecurity and uncertainty with regard to women’s
chastity and honour, rigorous restrictions were imposed upon them. There social
domestic and religious activities were restricted in a outlined sphere of the society.\textsuperscript{68}

Parda system, gruesome practice of performing ‘Sati’; popularity of early
marriage, evil practice of dowry and practice of polygamy were prevalent in the
Mugal period. Women were always losers when ever marital relation became
unpleasant.\textsuperscript{69} During the Mugal period the downward trend in women’s status
continued and the impact of Muslim rule further strengthen the weaker sex concept
with few exceptions such as widow remarriage and women inheritance which were
prevalent in the Muslim society.

In the British period the deterioration in the position and status of Indian
women had reached to the maximum degrees due to foul customs, traditions,
superstition and irrational bigotry.\textsuperscript{70} Ideologically woman was considered as a
completely inferior species, inferior to male having no significance and personality of
her own.\textsuperscript{71} Socially she was kept in a state of utter subjugation, suppression, denied
all right, suppressed and oppressed. Their very existence was merely a bare necessity

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\textsuperscript{67} Supra note 44, at p. 5.
\textsuperscript{68} Dutta, R.C., ‘Women in Indian History’. 1989. p. 90.
\textsuperscript{69} Supra note 57, at p. 245.
\textsuperscript{71} Supra note 7, at p. 37.
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and indispensable appendage to the male populations. The patriarchal joint family, the customs of polygamy, the purdah, the child marriage, self immolation of widows or a state of permanent widowhood, all these contributed to the smothering of the free development of women in the British period. But due to the pioneering work of some social reformer, changes were brought about in the position and status of women in that period.

After independence of India, the new Constitution of India was framed keeping in view the unequal treatment meted out to the women from time immemorial. In India the history of suppression of women is very old and long which is responsible for including general and special provision for uplifement and development of the status of woman. Constitutional provisions enable the women of India to better their conditions. Keeping in view the objectives of Constitution of India, the state enacted various women specific and women related legislation to protect them against all types of social discrimination and atrocities. Our Constitution and endorsement to various international conventions promise gender equality, yet crimes against women inside or outside the home are still on rise. After the independence of India, a number of laws have been enacted and amended, relating to prohibition of female infanticide, child marriage, dowry related crimes, Sati, medical termination of pregnancy, prohibition of prostitution and trafficking in women, atrocities and molestation, abduction, rape, protection in employment, equal remuneration etc. There is no doubt that women are not safe outside the home but what about the worst forms of violence that happen behind the closed doors and covers the entire gamut of exploitation, discrimination, maintained unequal economic and social structures and create an atmosphere of terror and threat, to the women. Alarming increase of violence against the women raises the question whether women are human beings or not? If they are human beings then why they from womb to tomb face violence in their own home. It is only in the recent years that the Indian civil law too gave recognition to domestic violence and passed specific civil law i.e.

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72 Supra note 70, at p. 37.
73 Supra note 7, at p. 37.
74 Supra note 45, at p. 5.
75 Supra note 60, at p. 9.
76 Supra note 43, at p. 100.
77 Supra note 60, at p. 9.
Protection of Women from Domestic Violence Act, 2005 to deal with domestic violence against women.

Since the late 1970’s researchers and theorists have focused increased attention on the widespread problem of domestic violence in contemporary society. Different researchers have shown that domestic violence against women cuts across racial, ethnic, religious and socio-economic lines. In particular researchers have sought to identify the factors associated with violence in an effort to develop theories explaining the cause of violence. 79 There are distinct theories of either family violence, women abuse or other type of violence in conjugal relationship. Even so, no single theory can fully explain violence against woman. 80

So far as Indian scene is concerned, there is no simple theoretical explanation for violence against women in the home. Certainly, any explanation must go beyond the individual characteristics of the man, the woman and the family and look to the structure of relationships and the role of society in under pining that structure. 81

The positive and negative features of existing theories can be used to know the causes of violence against women. Each theory provides a different lens through which we can examine aspect of violent behaviour.

Feminist theoretical perspective of violence against women emerged during the vibrant political movement for women back in the 1970’s. 82 The fundament goal of feminist perspective is to understand the women’s oppression in term of race, gender, class and sexual preference and how to change it. Advocates of this theoretical explanation argue that domestic violence is broadly defined as male coercion and oppression of women within the four walls of the home. 83 Feminist theorists believe in the feminism which means a movement for complete equality between men and women in every way. Feminist efforts to end patriarchal domination and insists on the eradication of exploitation and oppression of women in a spheres. 84 Feminist theorist argue that domestic violence is systematic and structural mechanism of

81 Cook, Rebecca J., ‘Human Rights of Women National and huemational Perspectives”. 1995, p. 120.
83 Supra note 7, at p. 227.
84 Supra note 82, at p. 23.
patriarchal control of women that is built on male superiority and female inferiority, sex-stereo-typed roles and expectations, and economic, social and political predominance of men and dependency of women.  

According to Family System Theory, the family and the social situation play an important role in determining the violent behaviour. Family conflict due to misunderstandings, disobedience, high expectations and financial stress emerged as the most important determinant of behaviours that are interpreted as violence. It is followed by individual traits such as aggressive tendencies, jealous, immaturity or suspicious nature of both the victim and the oppressor. All these instigators of violence against women are rooted in the internal structure of the family system. The family structure with its underlying basis of hierarchical structure and sexual division of labour is a fertile ground where violence is used as a tool against women to maintain the structure of family system and to ensure the continuation of the assigned role.

The Frustration-Aggression Theory, the Perversion Theory, the Self Attitude Theory, Power Theory and Traumatic Bonding Theory, approach the criminal violence from a socio-psychological level of analysis. The socio-psychological model assumes that criminal violence can best be understood by a careful examination of the external environmental factors that exercise an impact on the behaviour of individual offender, and every day interactional patterns or family interactional patterns etc, as the precursors to violence.

Frustration-Aggression Theory derived many of its basic postulates from Freudian theory (1930). It explains the process by which frustration is linked to aggression. Whenever something interferes with an individual’s attempt to reach some goal or end he feels frustrated and frustration in turn leads to some form of aggression i.e. both physical and verbal behaviour which intended to hurt

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85 Supra note 81, at p. 120.
87 Ibid.
88 Supra note 31, at p. 205.
90 Ibid.
91 Ibid.
People become frustrated, when they are unable to reach their goal, when frustrated; they tend to strike out at others, in ways that range from tongue lashing to overt violence. They consider verbs like, destroy, damage, torment, retaliate, hurt, humiliate, insult threaten and intimidate as action of an aggressive nature. Aggression was thus regarded as a response to frustration, directed towards the infliction of injury which may be of mental as well as of physical nature. The psychoanalysts explain violence on the basis of the theory of perversion and the theory of symptom formation. The word perversion suggests a deviation, which notably, is logically dependent on the norms from which it deviates. The meaning of the term has pivoted around a notion of deflection from a right or true course.

Self Attitude Theory emphasizes that in a society, culture or group that values violence persons of law self esteem may seek to bolster their image in the eyes of others and themselves by carrying out violent acts. This theory explains the propensity to violence of those for whom society make it difficult to achieves an adequate level of self-esteem.

Two of the most often discussed theories on battered women are Lenore Walker's 'The Cycle Theory of Violence' and 'Psycho Social Theory of Learned helplessness'. In the 'Cycle Theory of Violence' Walker described three phases in the cycle of violence. These three distinct phases associated with a recurring battering cycle -(1) tension building stage accompanied with rising sense of danger; (2) the active battering incident, and (3) loving contrition i.e. batterer may apologize profusely or show kindness and remorse and shower the victim with gifts and promises. The theory of learned helplessness suggests the victim give up the belief that they can escape from the batterer in order to develop sophisticated coping strategies. This theory explains how victim stop believing that their action will have a predictable outcome. As opposed to the learned helplessness theory, the Survivor

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97 Ibid.
100 Humphreys, Janice and Campbell, Jackie L. ‘Family Violence and Nursing Practice’. 2011, p. 144.
Theory credits women with the capacity to innovate newer strategies of coping and acknowledges the efforts of the survivors in seeking help form formal or informal sources.\(^{101}\)

Traumatic Bonding Theory explains family violence in term of the unique relationship and interaction that develops between a victim and the abuser. This theory has been used to explain and treat intimate partner abuse as well as incest. According to this theory trauma of the abuse creates a strong emotional tie that is characterized by cognitive distortions and behavioural strategies that ultimately and unintentionally perpetuate the abuse and strengthen the bond.\(^{102}\)

According to Power theory domestic violence is the result of power differentials that exist within the families.\(^{103}\) On the contrary Stress theory explains family violence as the result of stressors, whether the economic, social, or personal that affect families at all levels.\(^{104}\)

The Sociological or Socio-Cultural model provides a macro level analysis of family violence.\(^{105}\) These theories generally rely on factors outside the family as causing family violence. These factors include socially structured inequalities and cultural norms and attitudes, surrounding violence, abuse and family relations.\(^{106}\) Besides the two well know theories viz. the Structural Functional Theory and the Theory of the Subculture of Violence, the Learning Theory, the Exchange theory, the Anomie theory and the Resource Theory also come under a socio-cultural analysis of violence.\(^{107}\)

*The Structural Theory gives more prominence to the socio-structural factors as cause of domestic violence.\(^{108}\)* This theory focus on series of factors that create and transmit stress to individuals and families including culture and climate that

\(^{101}\) Supra note 98, at p. 144.
\(^{102}\) Supra note 89, at p. 166.
\(^{103}\) Supra note 78, at p. 128.
\(^{104}\) Id., pp. 38-39.
\(^{105}\) Id., pp 39-40.
\(^{106}\) Id., pp 39-40.
\(^{107}\) Id., pp 39-40.
\(^{108}\) Id., pp 39-40.
engenders transmits and provide support for the acceptance and practice of violence.\(^\text{109}\)

The Sub-Culture Theory suggests that a lot of deviant behaviour is a reflection of normative support for deviant values by a sub-group and even of encouragement by certain groups in social structures.\(^\text{110}\)

The System Tension and feedback Theory explains violence in intra-family relations by viewing the family as purposive goal seeking adaptive social system. Violence is seen as a systems product or output rather than an individual pathology.\(^\text{111}\)

Resource theory asserts that more resources including social, personal and economic a person can command within a social system, the more force he or she can muster. However, the more resources a person can command, the less the chances are that a person will actually deploy violence. Thus violence is one of the resources that individuals use as a last resort to maintain or advance their interest.\(^\text{112}\)

Exchange theory suggests that all relationship are based on calculated exchanges.\(^\text{113}\) As in any exchange relationship, partners in an intimate relationship provide each other with service and/or benefits. As long as the partner reciprocates with something the relationship remains calm and free of violence. But if reciprocity is not received then the violent partner perceives violence as a beneficial and effective tactics to get whatever he desires from the partner. This theory asserts that people used violence in the family if the costs of being violent do not outweigh the rewards.\(^\text{114}\)

The Social Learning theory provides a behavioral approach to explain the perspective of domestic violence. This theory explains that violence is learned, either directly or indirectly and reinforced in childhood, continued into adulthood as a coping response to stress or as a method of conflict resolution.\(^\text{115}\)

\(^{112}\) Supra note 89, at p. 175.
\(^{113}\) Seifert, Kathryn, et. al., 'Youth Violence: Theory, Prevention, and Interventions', 2012, p. 50.
\(^{115}\) Supra note 102, at p.19
Patriarchal perspective views the causes of violence against women in a system of social relations and institutions that give men dominating power and advantages that are withheld from women. Patriarchal societies grant privileges to men and permit or encourage their domination, oppression and exploitation over women's females.\(^{116}\)

Conflict theorists focus on economic resource inequalities and differential distributions of power in the family and society as a cause of violence against women and the weak.\(^{117}\)

According to the Psychopathological perspective family violence is the result of individual's psychopathologies which is caused by issues such as mental illness, personality disorders, and alcoholism.\(^{118}\)

According to Psychological Theory domestic violence results from specific characteristic of personality and interaction that lead some individuals to perpetuate violence in the family relationship. This perspective linked domestic violence to specific disorders, such as post-traumatic stress disorders, poor self esteem, and personality disorders.\(^{119}\)

Physiological and Biological explanations focus on the contribution of individuals biological and neurological factors in producing violent behaviours.\(^{120}\)

Social Bond Theory takes into consideration innate and acquired behaviours of an individual. According to this model the important condition, which lead a person to woman's victimization are status frustrations, life stresses and career crisis.\(^{121}\)

There are many myths about the causes of violence against women.\(^{122}\) In India domestic violence against women is a manifestation of gender inequality within the family system, cultural belief, patriarchal social norms, superstitions, dowry, poor law and order situation and the extreme low valuation of female life. Poverty, alcoholism, unemployment, frustration etc may also be the causing factor of violent behaviour.

\(^{116}\) Dobash R.E. and Dobash R.P., 'Violence against Wives', 1979, quoted in Supra note 89, at p. 175.
\(^{117}\) Supra note 109, at p. 29.
\(^{121}\) Supra note 89, at p. 180.
\(^{122}\) Reid, Sheila, 'Preventing Violence Against Women: A European Perspective', 2003, p. 17.
But domestic violence against women from womb to tomb cannot be linked particularly with anyone of these factors.\textsuperscript{123}

The female child from conception to death is exposed to all sorts of discrimination, abuse and exploitation which may either be manifest or concealed.\textsuperscript{124} Violence or crime against girls includes physical, psychological and sexual abuse of girl child, commercial sexual exploitation of young girls in pornography and prostitution, and also many harmful practices such as preference for a son and the consequent killing of the female foetus and female babies and female genital mutilation.\textsuperscript{125} Gruesome practice of dowry is also a cause of female foeticides and female infanticide in India.\textsuperscript{126} The victimization of girls through sexual abuse and neglect affects millions of female child.\textsuperscript{127} One of the causes of the sexual abuse of the female child is that it takes place in the privacy of domestic life\textsuperscript{128} and most of these cases go unreported due to one or other reason.\textsuperscript{129} In addition to these various causes there are also more specific influences and conditions that can cause child abuse and neglect, directly or indirectly like unemployment or loss of income, severe stress and strain, due to socio-economic factors, cultural tolerance for abuse or neglect, mental instability of the parents or caregiver, personality traits, family structure, lack of religious education and degradation of moral standards etc.

The main cause of violence against married women is the patriarchal notions of ownership over women’s bodies, sexuality, labour, reproductive rights, mobility and level of autonomy.\textsuperscript{130} Female socialization has been also viewed as an important casual factor leading to domestic violence against women.\textsuperscript{131} Another main cause for

\textsuperscript{124} Kumar M and Kumar, K., ‘Childhood and Puberty Feeding Practice, Medical Care & Growth Problems’. 2009. p. 278.
\textsuperscript{127} Supra note 106. pp. 5-6.
\textsuperscript{130} Pandey, Sushma. ‘Psycho-Social Aspect of Domestic Violence’, 2008. p. 44.
\textsuperscript{131} Id., at p. 97.
violence against women, especially in the context of Indian culture, is the ever stretchable demands for dowry.\textsuperscript{132}

Negative attitude towards women in general and adherence to stereotypical models of masculine and feminine behaviours are also responsible for violence against women.\textsuperscript{133} A wall of silence, denial and neglect, and cultural acceptance of domestic violence are the other contributory factors of violence against women.\textsuperscript{134}

Use of alcohol or intoxicants is also a main cause of domestic violence. In additions to this other main causes are – conflict between husband and wife on trivial issues, embarrassment behaviour against victim by family members, husband’s unemployment, dowry attitudinal differences and conflicts between family members, ego clashes with in-laws, illiteracy, gambling, extra-marital affairs and authoritative behaviour by husband and in-laws, infertility or having only girl child and no son. Misunderstanding between victim and family members, mistrust by husband and in-laws, and beyond limit expectation from the wife/daughter-in-laws. All these factors are identifies as the cause of domestic violence.\textsuperscript{135}

Elder abuse is another form of domestic violence, which has come to the public attention as a ‘social problem’ only recently.\textsuperscript{136} Older woman’s issue have been generally overlooked by the society but in past few years violence against older women by intimates has garnered scant attention as a women’s issue.\textsuperscript{137} Elder women abuse is caused by a complex mixer of social and personal factors. Ageism and patriarchy are powerful forces which underpin and sustain structural inequalities that enable the elder women abuse to be perpetuated.\textsuperscript{138} Vulnerability of elder women is another contributory causing factor of elder abuse.\textsuperscript{139} Disintegration of joint family system and absence or non-adherence of traditional norms of behaviour to take adequate care of olds has also contributed to the elder abuse.\textsuperscript{140} The factor of disability, lack of support, the absence of financial resources, high level of illiteracy,
negligible awareness about legal and economic right etc are also determine the extent of discrimination against the Elderly.\textsuperscript{141}

An analysis of various causes of domestic violence against different age group women reflect that etiology of domestic violence is a manifestation of historically unequal power relations between men and women, which have led to the domination over and discrimination against women by men and to the prevention of women’s full advancement.\textsuperscript{142} Violence against women is exacerbated by social pressure, notably the shame of denouncing certain acts, that have perpetuate violence against women, lack of access to legal information, aid or protection, lack of laws that effectively prohibit violence against women; failure to reform existing laws; inadequate efforts on the part of public authorities to promote awareness of and enforce existing laws and absence of educational and other means to address the cause and consequences of domestic violence.

The law can play a significant role in altering pre-conceived stereotypes as well as in altering discriminatory practices against the women by the use of sanctions. It may be a tool, however limited, in taking people and communities towards non-discrimination against women. Although attitudes may be slow to change, but the potential impact of the legal enforcement of this principle should not be minimized.\textsuperscript{143}

The low status of women in India up to 1940 had mainly stemmed from the traditional patriarchal norms, customs, caste restriction, illiteracy, economic dependence, religious prohibition and lack of female leadership, with these challenges to meet, framers of the Indian Constitution have added numbers of provisions for the benefit and protection of the women. Keeping in view the Constitutional objectives of the concept of equality and non-discrimination against women, government of India have enacted certain laws to improve the conditions of women in independent India and has continued the process of enacting legislative measures to raise the legal status of women.\textsuperscript{144} After independence various legislations have been brought out in order to give equal rights and privileges with men, eliminate all disparities, dissimilarities and discrimination against women, abolish inequality between the

\textsuperscript{141} Id., at 249.

\textsuperscript{142} Howe, Florance, and Levi, Tube, ‘Bijing and Beyond: Towards the Twenty First Century of Women’, 1996, p. 25.

\textsuperscript{143} Devi, Kavuru, ‘Women’s Equality in India: A Myth or Realty’, 2000, p.3

\textsuperscript{144} Supra note 98, at p. 1.
sexes, and remove external barriers coming in the way of their self-realization and
development. Thus rights and privileges have been made available constitutionally
and enabling legislation has been drafted to give the women her due. In the initial
year following independence, the state has attempted to codify existing laws of the
majority of Hindu population against traditional and conservative opinions against
women. These laws generally determine the issue of marriage, divorce, guardianship,
adoptive and property and tend to non-discriminate against women. However, the
presence of personal laws tends to compromise the women’s quest for equality and
freedom as the basically conservative nature of these laws harbours many inequalities
and is discriminatory to women. Thus a situation of anomaly exists in the
Constitution which prohibits discrimination based on sex and yet discriminatory
personal laws are permitted. Furthermore various provisions were inserted in the
Criminal law, and Indian Evidence Act to protect the women from different types of
atrocities. The criminalization of domestic violence in the form of Sections 498A and
304B of Indian Penal code, sought to increase the certainty and severity of legal
response to the protection of women in domestic relationship. But the fact remain
undeniable that, “in spite of the medley of laws in favour of women, women in India
still continue to live under the stress and strain of male domination that manifests
itself in the form of various kinds of cruelties to them.”

The Constitution of India is the basic and fundamental document of a country
having special legal sanctity, which sets out the framework and the principal functions
of the organs of the Government of a state and declares the principles governing the
operation of these organs. All the laws in the country are enacted under this
documents which is known as the Constitution of the country. It contains various
objectives including “The equality of status and opportunity as well as Justice, social,
economic and political” to all the citizens irrespective of their gender. These
objectives have been inserted with a view to give equal status to men and women.
Constitutional law provides the legal foundation for the status of women by providing

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146 Supra note 132. at p. 62.
147 Id. at p. 58.
148 Id. at p. 65.
149 Supra note 143. at p. 3.
150 Supra note 145. at p. 16.
152 Supra note 45. at p. 269.
many negative and positive provisions which go a long way in securing gender justice.\textsuperscript{153}

Part III of the Constitution of India, titled as “Fundamental Rights” secures to the people of India certain basic, natural and inalienable rights. These rights have been essential rights in order that “human liberty may be preserved, human personality developed and an effective social and democratic life promoted.”\textsuperscript{154} These rights have been enshrined in Articles 12 to 35, and applicable to all citizens irrespective of sex. However, certain special provisions are inserted to protect the rights of women.\textsuperscript{155}

Article 14 embodies the general principle of equality before law and prohibits unreasonable discrimination between people. Article 14 embodies the ideas of equality expressed in the preamble.\textsuperscript{156} The guardian of the Indian Constitution, the Supreme Court of India has always been the champion in maintaining and elaborating the “concept of equality of status and of equal justice” to all without any discrimination of sex.\textsuperscript{157} Hostile discrimination against woman has always been struck down by the Supreme Court of India in its various landmark judgements.\textsuperscript{158}

Article 15 of the Constitution provides for a particular application of the general principle embodied in Article 14.\textsuperscript{159} The third clause of Article 15 is of special importance for women and children because it empowers the state to make special provision for the protection of women and children.\textsuperscript{160} From the reading of clause (1) to clause (3) together, it is, clear that while discrimination on the ground of sex is impermissible, but special provisions for women are permissible.\textsuperscript{161} Thus it is no violation of Article 15 if state positively discriminates in favour of women to make special provisions to ameliorate there, social, economic and political condition and

\textsuperscript{153} Ibid.
\textsuperscript{155} Supra note 45, at p. 5
\textsuperscript{157} Supra note 7, at p. 271.
Miss C.B. Muthamma v. Union of India AIR 1979 SC1868
\textsuperscript{159} Supra note 156, at p. 121.
\textsuperscript{160} Id., at p. 122.
\textsuperscript{161} Shukla, V.N., ‘Constitution of India’, 2012, p. 86.
accord them parity.\textsuperscript{162} The Government on the strength of Article 15(3) of the Constitution has made a provision for reservation of not less than one third of total seats for women in the constitution of three tiers of Panchayats and Municipalities respectively,\textsuperscript{163} which is considered as a pioneer legislative endeavour for the political empowerment of the women in India.\textsuperscript{164}

Personal liberty is the most important of all Fundamental Rights. Article 19 to 22 deals with different aspects of this basic right, which provides the backbone of the part III on Fundamental Rights.\textsuperscript{165} The foremost among these are the six rights in the nature of freedoms which are guaranteed to the Indian Citizens irrespective of sex by Article 19 of the Constitution. Right to life and personal liberty as provided by Article 21 of the Constitution is also of special importance for women because the apex court by widest possible judicial interpretation have imposed on the state several positive obligation in favour of women.\textsuperscript{166}

The ideal of human dignity which though pervades the entire Constitution has been expressed in explicit term in the Article 23 of the Constitution.\textsuperscript{167} To counter the evil practice of trafficking in women and girls, on the strength of Article 23(1) the Parliament has passed the Immoral Traffic (Prevention) Act, 1956\textsuperscript{168} which aims at abolishing the practice of prostitution and other forms of trafficking including "devadasi system."

Article 25 (2) (b) empowers the state to make laws providing for social welfare and social reforms even though they might interfere with religious practices.\textsuperscript{169} The provisions of the Hindu Marriage Act, 1956 are also protected under this provision. Prohibition of evil practices such as Sati or the system of devadasi could be justified under this clause.\textsuperscript{170}

The incorporation of the Directive Principle of State Policy in part IV of the Constitution was one of the pioneering efforts to protect and improve the socio-
economic status of Indian women. These provisions concern women indirectly or by necessary implication, but there are also a few provisions which concern women directly and have a special bearing on their status and development such as Article 39 (a), (d), (e); Article 42 and Article 44.

Part IV-A of the Constitution contains the fundamental duties of the citizens of India. Clause (e) of Article 51A of this part is of special importance for women, which provides that it shall be the duty of every citizen to renounce practices derogatory to the dignity of women. It can be said with a considerable degree of certainty that the architects of the Indian Constitution have provided equal opportunities and avenues of development of both men and women through Constitutional measures.

Family relations in India are governed by the personal laws. These laws are often referred to as Civil laws, but in India they are more correctly termed as religious personal laws. These laws in India generally deal with marriage, divorce, maintenance, guardianship, adoption, succession, joint family property and partition etc and can broadly be characterized as “Family Law”.

Thus Hindus in India are governed by the Hindu Marriage Act 1955, the Hindu Succession Act, 1956, The Hindu Minority & Guardianship Act, 1956, the Hindu Adoption and Maintenance Act, 1956. The Indian Muslims are governed by the Shariat Act of 1937, the Muslim Women’s Dissolution of Marriage Act 1939, The Muslim Women (Protection of Rights on Divorce) Act 1986 and un-codified Muslim law. Similarly Christians in India are governed by their own Christians Marriage Act, the Indian Divorce Act 1869, and the India Succession Act, while Parsis, too have codified laws of marriage, divorce and of succession.

Most of these personal laws which contain provisions that are highly discriminatory against women, have either remained static or have changed in

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171 Sukla, Anil Kumar, ‘Political Status of Women’. 2007, p. 11.
173 Supra note 156, at p. 399.
174 Supra note 171, at p. 12.
175 Supra note 132, at p. 60.
176 Supra note 81, at p. 378.
177 Id., pp. 378-379.
The Indian state has made a little effort to change these laws or introduce new legislation in conformity with Constitutional principles. The only justification put forward by the state, however, has been that it does not want to interfere in the personal laws of the minority community. The only personal laws in India that have been reformed to some extent have been the Hindu Personal Laws.

There are only few provisions in the Civil Procedure Code 1908 and Specific Relief Act 1963, under which women can seek remedy from the Court in matters pertaining to marriage, if husband is about to take a second wife, the first wife can ask for injunction from the court. A suit for perpetual injunction by the wife against the husband can be filed under Section 9 of Civil Procedure Code read with Section 38 of the Specific Relief Act. The first wife can file a suit in a civil court for a declaration under Section 9 of Civil Procedure Code read with Section 34 of the Specific Relief Act that the second marriage of husband is null and void.

Women can also seek remedy in law of Torts, if a husband or relatives of husband of a women subjects her to any wrong or injury i.e. assault, battery, false imprisonment, physical injury as well as mental, then she can file a civil suit for damages in addition to other available remedies in criminal laws.

Criminal justice system has an important role to play in preventing and challenging criminal violence as well as domestic violence against women both symbolically and practically. The Criminal Laws of India has been codified in the Indian Penal Code 1860, and Criminal Procedure Code 1973. Further these two Acts are supplemented by the Indian Evidence Act, which is part and parcel of Indian Criminal Justice System. Legislature has time to time amended the existing Criminal Law and inserted various stringent provisions to prevent the crime against women. Recently Criminal Law Amendment Act, 2013 has brought drastic changes

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178 Id., at p. 375.
179 Ibid.
180 Ibid.
181 Ibid.
182 Mehta Rama, ‘Socio Legal Status of Women in India’, 1987, p. 94.
183 Supra note 182, at p. 94.
in the exiting Criminal Laws to protect the women from various crimes/atrocities. The Indian Penal Code defines the offence and provides for quantum of punishment, whilst there is no specific offence of domestic violence in the code but this Act still recognizes several offences relating to violence against women, some of which directly addressed the issue of domestic violence. They are in the form of dowry death, female infanticide, abetment to commit suicide, hurt, grievous hurt etc. Another category of offences like wrongful restraint, or wrongful confinement, or use of force or assault, etc are also specific offences that could be used to protect women from domestic violence. Thus this code contains general as well as special provisions for the protection of women.

Dowry death is the worst form of the domestic violence where in many married women have been killed at their matrimonial home by her husband and relative out of greed for dowry. For curtailing and combating the increasing menace of dowry death Section 304B was inserted by the Criminal Law amendment Act, 1986. This new provision defines the offence of dowry death and prescribes stringent punishment.

There are various incidents where women are driven to commit suicide due to domestic violence. In such cases, perpetrator is responsible for the abetment to commit suicide under Section 306 of the Indian Penal Code. Though Section 306 does not exclusively deal with the crimes against women yet in large number of the cases under this section married women have been found to be the victims.

Section 498A of the Indian Penal Code is one of the sections which deal with domestic violence in the form of matrimonial cruelty, whether it is physical or mental. This section makes matrimonial cruelty an offence. This section was enacted to meet out the cases of dowry related violence, including dowry death against the married women. It was inserted in the year 1983, with the objectives to protect the women who are being harassed by her husband or his relatives. Marital rape is another

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form of domestic violence committed against wife. Indian Penal Code recognizes marital rape in case where the wife is below the age of 15 years.\textsuperscript{190}

Dishonest misappropriation or conversion of wife’s property i.e. \textit{stridhan}, for his own use by the husband or his relative is a common form of domestic violence against women, which is addressed under Sections 405 and 406 of the Indian Penal Code. Bigamy is considered as one of the kinds of domestic violence against women. Sections 494 and 495 of the Indian Penal Code deals with the bigamous marriage. Various offences under the Indian Penal Code mostly cover all the incident of domestic violence against women, which they generally face in their day to day life.

Criminal Procedure Code supplement the Indian Penal Code by providing rules of procedure with a object to prevent offences being committed and bringing the offenders to justice. This code contains various pro-women procedural provisions with a object to afford them legal protection, while their dealing with various agencies of criminal law administration. Additionally, this code also provides the provisions for maintenance of wife, children and parents.\textsuperscript{191} It is natural and fundamental duty of every person to maintain his wife, children and parents if they are unable to maintain themselves. Besides personal laws a wife can also claim maintenance under Section 125 of the Code, if she is unable to maintain herself and her husband neglect or refuse to maintain her despite having sufficient means. This provision has no relation to liability to maintain under the personal laws of the parties. Thus this section is a uniform piece of legislation for providing maintenance to the wives irrespective of their religion. This section covers three kinds of relation i.e. wife, sister, or mother who can claim maintenance.

The law of evidence occupies a unique position in the field of substantive and procedural laws. The assertion of substantive rights can only be established by evidence, which must be relevant and admissible according to this law.\textsuperscript{192}

\textsuperscript{190} Section 375 Exception 2 of Indian Penal Code as substituted by the Criminal Law (Amendment) Act, 2013 lays down that “Sexual intercourse or sexual acts by a man with his own wife, the wife not being fifteen years of age, is not a rape”.


\textsuperscript{192} Ranchhoddas, Rattanlal, and Thakore, Dhirajlal Keshalal, ‘The Law of Evidence’. 2011, see preface.
There are certain provisions in the Indian Evidence Act, 1872, which are specifically inserted to safeguard the women victims of crime and to provide them justice, even in the absence of cogent evidence. Section 113A of the Evidence Act gives the scope for presumption in cases of abetment of suicide under Section 306 of Indian Penal Code, if deceased is a married woman, Section 113-B of the Evidence Act in similar manner deals with the presumption in cases of dowry death under Section 304 B of Indian Penal Code. Under these two Sections the court may presume, having regard to all the other circumstances of case that such suicide/dowry death had been abetted/caused by her husband or by his relatives. Section 114A of the Evidence Act provide for presumption as to absence of consent in certain persecution for rape.

Information Technology Act provides protection to the women from cyber crimes. Cyber crime against women in India is on at alarming stage. Cyber crime in context of women may be defined as a crime which is targeted against women with a motive to intentionally harm the victim, using modern tele-communication network such as the internet (chat rooms, emails notice/groups) and Mobile Phone (SMS/MMS).

The victims of cybercrimes feels brutalized, horrified and even suicidal in some cases, not due to physical torture, but due to cyber assisted emotional torture, which is unique to women alone. India has enacted Information Technology Act in 2000 to Combat with cyber crimes. The Information Technology Act after the amendment of 2008 gave an extended list of offences and contraventions punishable under the Act. This Act now provides various provisions to protect the women from cyber crime.

After independence various women specific legislation has been enacted in favour of women to address the most serious problem of the society, which they are facing in their day to day life.

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193 Supra note 188, at p. 86.
194 Section 4 of the Evidence Act lays down that whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.
196 Ibid.
Immoral Traffic (Prevention) Act, 1956 was passed by the government with the object of inhibiting or abolishing trafficking in women and girls and to stamp out the evil of prostitution which was rampant in various part of the India.¹⁹⁸

Dowry Prohibition Act, 1961 was enacted with the objective to prohibit giving or taking of dowry. This Act promises to curb the evil of dowry system, which has been prevalent in our society since ancient times. This Act makes the practice of dowry system punishable and at the same time ensures that any dowry if given does ensure for the benefit of the brides. This act covered all people irrespective of their religion. Parliament drastically amended the Dowry Prohibition Act, 1961 in 1984, 1986 and made offences cognizable, non-compoundable and non bailable respectively.

The Indecent Representation of Women (Prohibition) Act 1986 was enacted with an object to prohibit indecent representation of women through advertisement or in publication, writing, painting, figures or in any other manner and for matters connected therewith or incidental thereto.

Under obligation imposed upon the state under Article 42 of the constitution of India, to make provision for securing just and human conditions of work and for maternity relief, the Parliament has passed the Maternity Benefit Act, 1961 to regulate the employment of women in certain establishments including specified organization, institution etc. for certain period before or after the child birth and to provide for maternity benefit and certain other benefit.

The Commission of Sati (Prevention) Act, 1987 was enacted with object to provide more effective prevention of the commission of Sati and its glorification and matters connected therewith or incidental thereto.

The National Commission for Women Act, 1990 is another important piece of legislation which study and monitor all matters relating to the Constitutional and legal safeguards provided for women, and take up the cases of violation of these provisions with the appropriate authorities.¹⁹⁹

The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act was enacted in 1994 to prevent female foeticide and arrest the declining sex ratio in India. This Act was amended in 2003 to improve the regulation according to the new technology used in sex selection. This Act lays down provision for the prohibition of sex selection before or after conception, for regulation of prenatal diagnostic techniques and for the prevention of the misuse of the techniques for sex determination leading to female foeticide or matter connected therewith or incidental thereto.

Due to anomalies in the existing laws in protecting the women from violence within the four walls of their home, the Government has enacted the Protection of Women from Domestic Violence Act in 2005, with an objective to provide for more effective protection of the rights of women guaranteed under the Constitution who are victim of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. This Act is in nature of civil law, which is intended to protect the women from being victims of domestic violence and to prevent the occurrence of domestic violence in the society. There are various provision in this Act, in which women can seek redressal of their grievances and obtain the speedy relief. The Act defines the term ‘domestic violence’ very widely. The Act has given the Magistrate a wide range of powers. The Magistrate can pass Protection Order, Residence Order, Monetary Relief, Custody Order of the Children, and Compensation Order in favour of the aggrieved person. The various remedial orders under the Act will help in the social and economic empowerment of women.

To protect the children from offences of sexual assault, sexual harassment and pornography, Government has enacted the Protection of Children from Sexual Offences Act in 2012. This Act also provide for establishment of special courts for trial of such offences and for matters connected therewith or incidental thereto. This Act recognizes almost every known form of sexual abuse against children as punishable offence and provide a child friendly judicial process.

The Government has passed in 2013, the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressed) Act, to ensure that women are protected against sexual harassment at all work places, be it in public or private.
Thus after independence various legislative initiatives were taken for protecting the women from various types of atrocities and for their welfare. These initiatives were taken to provide equality to women and also to provide improvement in their life.

Various efforts have been made at the International level under the auspices of the United Nations to eliminate violence against women. The United Nation Charter 1945 affirms the equal right of women and men. The Universal Declaration of Human Right proclaimed in 1948 by the General Assembly of the United Nations states that everyone should enjoy human rights without discrimination. These two basic human rights instruments ensure equality of women with men in variety of way. Following to these rights, the International Covenant on civil and political right in 1966 explicitly affirmed the obligation of state parties to ensure equal right of men and women. The Convention on Elimination of All form of Discrimination Against Women (hereinafter mentioned as CEDAW), the most extensive women’s right international instrument adopted in 1979 by the United Nation. The primary goal of CEDAW is to eliminate discrimination against women and to promote a respect for human rights throughout the world. In the year 1993, the United Nations General Assembly adopted the declaration on the elimination of violence against women, which is the first international human rights instrument to deal exclusively with violence against women. The major turning point however, was the Vienna world conference on Human Rights held in 1993, which declared that the United Nations should work toward eliminating violence against women in public and private life, all forms of sexual harassment, exploitation and trafficking in women, gender bias in the administration of justice and any conflict arising between the rights of women and harmful effects of certain traditional practices, cultural prejudices, and religious extremism. Beijing Declaration and Platform for Action, agreed at the fourth world conference on women in 1995 contain a special section on the violence against women. The Beijing Declaration shows strong commitment at the international level to combat violence against women. In response to the Beijing Platform for Action, many states have adopted legislation recognizing that domestic violence should be treated in the same way as stranger violence. The Government of

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200 Supra note 16, at p. 48.
201 Supra note 133, at p. 84.
India has enacted Domestic Violence Act to implement the Beijing Declaration as well as platform for action and CEDAW.\textsuperscript{202}

It is the duty of the state in all its part i.e. executive, legislature and the judiciary to take steps to prevent violence against women, since it constitutes a violation of women’s human rights. Judiciary plays a most prominent and crucial role in protecting the rights of women by offering redress against actual or threatened violation of these rights. Judiciary is the last resort of the victims. Indian judicial system establishes a procedure which provides redress to all cases of violence against women and ensures that perpetrators are held accountable and guilty. But it is also true that women face many obstacles when they seek relief from legal system.\textsuperscript{203}

The Criminal Justice system response to the cases of violence against women has clearly played a role in educating the public on what is not acceptable in our community against women.\textsuperscript{204} A study of both the negative judgement, in which the patriarchal and class/caste bias of court become apparent, and of the positive judgement, in which the court have shown their concern against discrimination and for the rights of women\textsuperscript{205} will facilitate not only an understanding of judicial perception on the issue but also help in assessing the judicial response to the crime against women.\textsuperscript{206}

The Indian Judiciary has played a creative role in providing justice to women victims of violence and has given far reaching and innovative judgements upholding the basic principle of equality of sexes and tried to maintain the dignity and honour of women.\textsuperscript{207}

In India, the Supreme Court is the guardian and guarantor of every right of human being, whether living or yet to born. In order to perform this obligation Supreme Court issued several directions to Central Government, all State Governments and Union Territories and to appropriate authorities to prevent the

\textsuperscript{202} Id., at p. 83.
\textsuperscript{205} Supra note 7. at p. 356.
\textsuperscript{207} Supra note 200. at p. 51.
practice of female foeticide in the case of Centre for Inquiry into Health and Allied Theme (CEHAT) v. Union of India. The Supreme Court passed various orders, from time to time, commanding the Central and State Governments to implement with all vigor and zeal The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994 and the rules frames there in. The Supreme Court on 4th March 2013 passed a Slew of directions to check female foeticide noting that the law relating to pre-natal sex determinations was misused with “Impunity” in the country. In Childline India foundation v. Alan John Waters and Ors. while convicting the accused on complaint of physical and sexual abuse of children kept in shelter home, the Apex Court observed, “that children are the greatest gift to humanity. The sexual abuse of children is one of the most heinous crime. It is an appalling violation of their trust, an ugly breach of our commitment to protect the innocent. There are special safeguards in the Constitution that apply specifically to children. The Constitution has envisaged a happy and healthy childhood for children, which is free from abuse and exploitation.”

In M.G. Kakkad v. Naval Dubey the Apex Court while inflicting severe punishment on the accused observed “………though all sexual assaults on female are not reported and do not come to light yet there is an alarming and shocking increase of sexual offences committed on children. This is due to the reasons that children are ignorant of the act of rape and are not able to offer resistance and become easy prey for lusty brutes who displays the unscrupulous, deceitful and insidious act of luring female children and young girls. Therefore, such offenders who are menace to the civilized society should be mercilessly and inexorably punished in the severest terms. We feels that judges who bear the sword of justice should not hesitate to use that sword with the utmost severity, to the full and to the end if the gravity of the offence so demand.”

210 (2011) 6 SCC 261.
211 1992 SCC (3) 204. See also Abdul Wahid Bahadur Ali Shaikh v. State of Maharashtra 1993 Cr. I.J.1977(Boin.).
Sakshi v. Union of India and Ors. is a very important case regarding matters connected with sexual abuse of children. In this case the apex court has issued various directions in holding trial of child sex abuse or rape.

In Kamesh Panjiyar v. State of Bihar the Apex Court observed that “the marriages are made in heaven, is an adage. A bride leaves the parental home for the matrimonial home, leaving behind sweet memories therewith a hope that she will see a new world full of love in her grooms house…. Alas! the alarming rise in number of cases involving harassment to the newly wed girls for dowry shatters the dream……….”

In Kundula Bala Subrahmanyam v. State of A.P., the Supreme Court referred to the important role of the courts in dealing with the cases of dowry related violence. The court observed that “it is expected that the courts would deal with such cases in a more realistic manner and not allow the criminals to escape on account of procedural technicalities or insignificant lacunae in the evidence as otherwise the criminals would receive encouragement and the victims of crimes would be totally discouraged by the crime going unpunished. The courts are expected to be sensitive in cases involving crime against women.” In a number of discussions the Supreme Court has shown remarkable pragmatism in dealing with the cases of dowry related violence against women. The court has also indicated in few cases about what will not considered as a ‘demand for dowry’. The Supreme Court has made clear, through several of its judgements, that the legal definition of ‘cruelty’ under Section 304B is the same as it is under section 498A Indian Penal Code. The court has also taken the opportunity to better articulate what ‘cruelty’ has meant in practice in various cases.

‘Soon before’ in case of dowry death is another key component of the offence under Section 304B of Indian Penal Code. The Higher Judiciary has elucidated, what

213 2005 Cr.L.J.1418 (SC)
time frame is considered as “soon before” in case of dowry death in various judgements. In *Hira Lai v. State (Government of N.C.T) Delhi*, the court observed that the determination of period which can come within the term ‘soon before’ is left to be determined by the court, depending upon facts and circumstances of each case. Suffice, however, to indicate that expression ‘soon before’ would normally imply that the interval should not be much between the concerned cruelty or harassment and the death in question.

As to the relationship between Section 304B and 498A of Indian Penal Code, the Apex Court in *Smt. Shanti and Anr. v. State of Haryana* observed that Section 304B and 498A cannot be held to be mutually exclusive. The Supreme Court has also clarified several aspect of presumption under Section 113A and 113B of Indian Evidence Act. In *Devi Lal v. State of Rajasthan* the court observed that Section 113A of the Evidence Act relates to offences under Section 498A and 306 of Indian Penal Code whereas Section 113B relates to Section 304B.

Dying declaration plays very important role to provide justice to the victim of dowry death because there may not be any other witness to such types of gruesome offences except the women who has died. The Higher judiciary has considered the evidentiary value of these declarations in number of cases.

Taking a serious note on granting of anticipatory bail in cases of dowry death, The Apex court in *Samunder Singh v. State of Rajasthan* observed that anticipatory bail ought not to be granted in bride burning cases. In *Rajbir @ Raju & Anr. v. State of Haryana* the apex court has equated ‘dowry death’ with murder, fitting under the ‘rarest of rare category’ and mandated all trial courts to ‘ordinarily add section 302 of Indian Penal Code to the charge of Section 304B, so that death sentence can be imposed in such heinous and barbaric crimes against women.

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220 (2007) 12 SC ALE 265 SCC.


222 AIR 1987 737 (SC).

223 2010 (12) SCC SC ALE 319.
In *State of West Bengal v Orilal Jaiswal* the Apex Court has laid down certain propositions, which may go a long way to eliminate undeserved acquittals under Section 498A of the Indian Penal Code.

The Legal Concept of ‘cruelty’ is well defined under criminal law but in matrimonial laws, it is a judicially developed concept. The legal concept of cruelty was generally described by the House of Lord in *Russell v. Rusell* as “conduct of such a character as to have caused danger to life, limb or health (bodily or mental) or as to give rise to a reasonable apprehension of such danger.” This is the accepted legal meaning of the expression ‘cruelty’ in England as also in India, which is rather difficult to define. In *Hemwanti Tripathi v. Harish Narain Tripathi* the Delhi High Court has observed that it is not possible to put down the concept of cruelty in a strait jacket formula. In *Shobha Rani v. Madhukar Reddi* the Court observed that “the word ‘cruelty’ has been used in Section 13 (i) (a) of the Hindu Marriage Act in context of human conduct or behaviour in relation to or in respect of matrimonial duties or obligations. It is a course of conduct of one which adversely affected the other. The cruelty may be mental or physical, intentional or unintentional.

In *Flora Bose v. Suproti Bose* the Delhi High Court observed that “to constitute cruelty, the conduct complained of should be ‘grave and weighty’ so as to come to the conclusion that the aggrieved party cannot be reasonably expected to live with the other spouse. It must be something more serious than “ordinary wear and tear of married life.” The court further observed that cruelty have to be adjudged in a case in the facts and circumstances and the evidence adduced on record. It is not required that physical violence as well as mental torture are essential to constitute cruelty. Even conduct inflicting a miserable mental agony and torture under the given circumstances may constitute cruelty within the meaning of section 13 (1) (ia) of the Act.

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224 AIR 1994 SC 1418.
227 AIR 2012 Delhi 1
228 (1998) 1 SCC 105
229 AIR 2011 Delhi 5.
The Legal Concept of cruelty has also been discussed in the case of *Vinita Saxena v. Pankaj Pandit* wherein the Supreme Court has allowed the wife appeal for divorce on the ground of cruelty. The Court observed that mental cruelty can cause even more serious injury than the physical harm and create in the mind of the injured appellant such apprehension as is contemplated in the statutory provision.

The general rule in all questions of cruelty is that the whole matrimonial relationship must be considered, that rule is of special importance when the cruelty consist not of violent acts but of injurious reproaches, complaints, accusation or taunts. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of, such is the wonderful (sic) realm of cruelty.

The Supreme Court and various High Courts in India have over the year held various acts, conducts, as constituting physical as well as mental cruelty in a given circumstances. There are various acts which constitute cruelty, such as slapping; beating and dragging; act of physical violence resulting in injuries; drunkenness; false accusation of adultery or unchastity; extra marital affairs; deprivation of property i.e. stridhan demand for dowry and ill treatment; reprehensible conduct; wrongful confinement and denial of food; refused to have children; second marriage by the husband etc.

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240 Rajiv Dinesh gadkari v. Smt. Nilangi AIR 2010 (NOC) 538 (Bom.).
Cruelty is a question of fact which has to be proved by quoting instances and leading positive evidence to prove those instances. Vague and general allegation against the behaviour of spouse may be uneasy for the other, but it may not amount to cruelty in law. In *Mahesh Kumar Sinha v. Yamini Sinha*,\(^{244}\) the court held that, the allegations like inability to cook or speak in Hindi are trivial and they do not establish cruelty by wife. In *Goka Kameswari v. Goka Venkataramaiah*,\(^{245}\) the court observed that mere filing of criminal cases relating to matrimonial disputes cannot be treated as an act of cruelty. In *Krishan Kumar v. Smt. Nidhi Arora*,\(^{246}\) the court observed that mere desire by wife for separate residence keeping in view their financial position would not amount to mental cruelty. Thus mere trivial irritations, quarrels, normal and ordinary wear and tear of married life which happens in day to day life in all families cannot be said to amount to cruelty.

A new dimension has been given to the concept of cruelty under criminal law by introducing an entirely new offence under Section 498A of Indian Penal Code, hitherto unknown to the criminal jurisprudence. Cruelty has been defined by the explanation added to the Section 498A Indian Penal Code.\(^{247}\) *In Girdhar Shankar Tawde v. State of Maharashtra*,\(^{248}\) the Apex Court observed that “Cruelty” has to be understood having a specific statutory meaning provided in Section 498A Indian Penal Code which deals with patent and latent act of cruelty of a husband or relative of husband. Thus basic purport of the statutory provision is to avoid ‘cruelty’ which stands defined by attributing a specific statutory meaning in criminal law.\(^{249}\) There are various act or conducts of the husband or his relative which came under the statutory definition of cruelty under criminal law such as, false/falseless accusation of adultery or unchastely;\(^{250}\) removal of child or threatening to remove the child;\(^{251}\) filing of malicious and vexatious litigation;\(^{252}\) ill-treatment on account of giving birth

\(^{244}\) AIR 2013 Chh. 1550.
\(^{246}\) AIR 2010 (NOC) 441 (P&H).
\(^{247}\) Suveeta v. State by Inspector of Police Cr. LJ 2009 2974 (SC).
\(^{248}\) AIR 2002 SC 2078.. See also B.S. Joshi v. State of Haryana 2003 Cri. LJ 2028 (SC).
\(^{249}\) Ibid.
\(^{251}\) Inder Raj Malik v. Sunita Malik 1986 Cr. LJ. 1510 (Del.) see also Vijay Kumar v. State of Uttar Pradesh 1988 Cr. LJ 1581.
\(^{252}\) Madhuri Chitnis v. Mukand Chitnis 1972 Cr. LJ 111 (Bombay).
to female child; drunkenness coupled with beating and harassment; insulting, scolding and suspicious behaviour; taunting or teasing etc.

In \textit{Ajay Kant v Smt. Alka Sharma}, the Apex Court observed that the phenomenon of domestic violence is widely prevalent but has remained largely invisible in the public domain. Presently, where a woman is subjected to cruelty by her husband or his relatives, it is an offence under Section 498A of Indian Penal Code. The Civil Law does not however address this phenomenon in its entirety. It is, therefore, proposed to enact a law keeping in view the rights guaranteed under Article 14, 15 and 21 of the Constitution of India to provide for a remedy under the civil law, which is intended to protect the women from being victims of domestic violence and to prevent the occurrence of domestic violence in society.

In \textit{Vimlaben Ajitbhai Patel v Vastsiben Ashok Bhai}, the court observed that the Domestic Violence Act provides a higher right in favour of a wife. She not only acquires to be maintained but also there under acquires a right of residence which is a higher right.

The Higher Judiciary has also interpreted words such as ‘respondents’, ‘shared household’, etc under the Domestic Violence Act, 2005 while granting relief in matters of domestic violence against women.

Thus it can be said after taking into account these various landmark judgements that Indian judiciary played a creative role in providing justice to the women victim of violence and has given far reaching and innovative judgements upholding, the basic principal of equality of sexes and tried to maintain the dignity and honour of women.

Despite of having various pro-women laws to protect the women from domestic violence, the phenomenon of domestic violence against women is widely prevalent in the whole of the country. The state of Himachal Pradesh is not an exception to it. Himachal Pradesh is a state in the Northern India. The total area of Himachal Pradesh is 55,673 square kilometers, which is bordered by Jammu and Kashmir on the North, Punjab on the West, Haryana and Uttrakhand on the South-East and by the Tibet autonomous region on the East.  

The population of the state is 68, 56,709 as on 1st of March 2011. Out of this 34, 73,892 are male and 33, 82,617 females. The proportion of the male population is 50.67 percent and that of female 49.33 percent. The population of the state constitute of 0.57 percent of India’s population and ranks 21st position amongst all states and union territories of the country.  

Sex ratio is important demographic indicator and is defined as number of females per 1,000 males. 2011 census shows sex ratio of 974 females per 1,000 male against 968 females in 2001 census. The position of the sex ratio in the state in 2011 census is comparatively better than sex ratio of 940 females per 1,000 males in the country. The literacy rate in the state, stand at 86.02 percent, in case of males and 68.08 percent in respect of female, both above the national average.  

Himachal Pradesh has 12 districts in all. Each district has its own characteristics and history. For the administrative convenience these districts have been divided into tehsils, sub tehsils and blocks. The nucleus of administration at the village level is Gram Panchyat.  

For collecting the relevant data pertaining to domestic violence against women the survey was conducted in the district Bilaspur of Himachal Pradesh. According to 2011 census district Bilaspur has a population of about 3,82056. Out of this 1,92827 are male and 189229 females. 2011 census shows sex ratio of 981 females per 1,000. The literacy rate in the district, stand at 92.39 percent, in case of males and 78.90 percent in respect of female.

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263 Id., at p.58.
264 Id., at p 7
265 Id., at p.131.
266 Id., at p 60.
People of different castes, religion and socio-economic groups live in this district.

There are three development blocks namely Sader (Bilaspur), Ghumarwin and Jhandutta in Bilaspur, having 151 gram Panchayats.\textsuperscript{267}

This study was designed to investigate the prevalence of domestic violence amongst women in district Bilaspur.

The study comprises a sample of five hundred women respondents selected randomly from three development blocks in district Bilaspur, Himachal Pradesh. The sample includes women respondents of different castes, religion, age groups, marital duration, income groups and educational levels.

Data were collected with the help of structured questionnaires, and personal interviews regarding the incidents of domestic violence. For a detailed understanding of the research problem structured questionnaires were used for collecting the responses of the women respondents and relevant information was collected by cross questioning them wherever it was felt necessary.

From the empirical survey pertaining to the prevalence of domestic violence at district Bilaspur, the overall picture that emerges is as under:

The main objectives of the present work were to study, whether women in the particular area are victim of domestic violence and to study its types and causes and to know about the awareness of the women respondents about existing legal safeguards as provided in various legislations in general and Domestic Violence Act, 2005 in particular for their protection from domestic violence. It was also aimed at examining the role of existing laws in curbing the domestic violence against women. The findings of present empirical study indicate that there was no demand of dowry from majority of respondents at the time of marriage or after solemnization of marriage. Majority of the respondents had not faced domestic violence for not fulfilling of the desired demand of dowry. Parents or close relatives of the small number of respondents had been insulted/abused/humiliated by their husband or in-laws in relation to any demand of articles or dowry in their presence. Besides this, the study revealed that property, gifts or wearing articles given during the time of marriage of

\textsuperscript{267} Id., at p.131.
the small number of respondents had been disposed of or taken out of their possession by their husband and his family members against their will or without their consent.

More than half number of the respondents had faced various act of violence in their family relationship. Significant number of the respondents (42.0%) had been beaten/harassed either for one or other reason in their family relationship such as for showing disrespect to in-laws or; for neglecting household work or children or; for not cooking food properly or; for going out of home without telling husband or other member of family or for suspicion without any reason or; for having no child or; for having girl child.

It was further revealed from the investigation that incidence of violence in form of slaps, hits, kicks, beatings and threat to use of weapon occurred to small number of respondents (9.2%) within last twelve months, whereas small number of respondents (26.0%) had faced the incidence of violence in the form of slaps; beating and various form of violence such as slaps or beating or kicks or hits by their husband or in-laws since their marriage. Small number of respondents had been injured in incidence of domestic violence committed against them.

Besides this, small numbers of respondents had been denied food for one or other reason such as for not doing household work properly, for not obeying of the direction of the husband and in-law etc by their husband and his family members, whereas very small number of respondents (5.0%) had also been locked in room by their husband and his family members.

The study further revealed that majority of respondents had not been denied permission to attend their mother, father, brother or relatives when they need them or when respondents wanted to meet them. Majority of the respondents had been staying with their husband and in his family due to one or other reason such as perception that violent behaviour is normal in a marital relationship or economic problems or for family honour or no place to go or self blame or for children. Families of majority of respondents know about the domestic violence against them in their family relationship. Only small number of respondents had sought help when they faced domestic violence.
The investigation further revealed that there were restrictions on movement, education and other liberties such as job etc. of small number of respondents.

The awareness of the respondents about the existing legal safeguards as provided to the women in India was found satisfactory. The studies revealed that majority of respondents were aware about the existing legal safeguards as provided to the women in India in general and Domestic Violence Act, 2005 in particular.

Legal Literacy Camp organized at Panchayats Level, news papers television, and radio were the major sources that made aware the majority of respondents about the existing legal Safeguards as provided to the women in India and the Protection of women from Domestic Violence Act, 2005. Small numbers of respondents were aware about the provisions of redressal of grievances under the Domestic Violence Act, 2005. Small number of respondent had the grievances under the Domestic Violence Act. 2005 and only small number of respondent had reported their grievances under the authorities established under Domestic Violence Act, 2005.

The study further revealed that very small numbers of respondents were aware about the various provisions and orders that can be passed to protect the victim from domestic violence under the Domestic Violence Act 2005.

The study revealed that liquor, extra marital relations, economic greed/unemployment poverty; educational disparities; birth of girl child or desire for a son; desire for dowry; suspicion on the character of women without any reason; disobeying of the directions of husband and in-laws were the main causes of domestic violence against women.

SUGGESTIONS

The following suggestions have been made to deal with the problem of domestic violence against women effectively:-

1. The Legal Safeguards as provided in various legislations for the prevention and control of crime against women should be enforced strictly with true spirit.
2. The judiciary must strongly reinforce the message that domestic violence against women by her own near and dear ones is a serious crime, and the abuser will be held accountable.
3. Domestic violence against women needs to be tackled with greater sensitivity as a part of the women’s empowerment programme.

4. There is need to sensitize, the police, the judiciary, the bureaucracy as well as the community at large to the issue of domestic violence against women.

5. Victims of the domestic violence should be encouraged to report their grievances to the appropriate authorities.

6. Since domestic violence against women has always been considered a private matter to be dealt with behind closed doors, a systematic media campaign is intended to bring the discussion into more public fora and generate the type of dialogue needs to shatter entrenched beliefs that violence may be a normal way to resolve conflict.

7. There is need to encourage attitudes which will lead to a reduction in violence against women.

8. Curriculum that teaches non-violence, human rights and gender issues should be included in elementary and secondary schools, colleges, and Universities etc.

9. NGO’s like women organization which work for women’s cause should be promoted.

10. It is important that there be clear standards with regard to police action in the context of domestic violence against women.

11. There is need to build awareness throughout India of the problem of domestic violence against women, and about the existing legal safeguards as provided in various legislation and Domestic Violence Act, 2005, for the protection of women from violence inside or outside the home.

12. In addition to raising awareness, the programmes should be launched to, increase understanding about the nature and prevalence of domestic violence; increase legal awareness amongst women and community members, encourage community and male responsibility and accountability towards domestic violence, increase the capacity of the community to identify and appropriately respond to the incidents of domestic violence against women.

13. Government should constitute a multi-disciplinary resource groups to develop awareness raising programmes on domestic violence.
14. Awareness should be ensured amongst police, Magistrate and other legal and law professional regarding the prevention of domestic violence against women.

15. Block Level awareness programmes involving ASHA Workers, Aganwari Workers, Medical people, self help group, NGO’s police, judiciary etc should be initiated.

16. Government should launch a campaign to enlighten the women of their basic rights as guaranteed by law i.e. they should be empowered through the knowledge of their rights.

17. Campaigns and workshops should be organized frequently to expose the evils of domestic violence particularly in the remote and rural areas of the country.

18. The socio-economic and cultural factors that perpetrate domestic violence against women will have to be identified and eliminated in order to address this sensitive social issue.

19. Approaching police, concerned authorities and judicial system is difficult for the victims of domestic violence in rural areas in comparison with urban areas. Therefore, women help groups should be established to help the victims of domestic violence, when they face violence in domestic relationship.

20. Pro-women laws should be implemented in a diligent manner for which both police and judiciary should be kept well informed.

21. There are plenty of women friendly laws to protect them from various forms of atrocities inside or outside the home, but in order that they are implemented under the socio-political environment, a robust foolproof administrative set-up with a positive mindset of the implementing agencies and a women controlled monitoring system should be put in place.

22. We should focus on education for all, specifically more education for the girls, and gender sensitive education for males.

23. Women should be given the opportunity of vocational training and skill development for self empowerment or employment.

24. Social reforms about prevention of crime against women should be started and encouraged.
25. There is an urgent need for organized efforts on the part of the state and NGO’s to provide support services to the victims of domestic violence against women in India.

26. The public/society needs to be educated about the widespread problem of domestic violence against women. The drive to educate can start at school level and can spread with the help of advertisements, video clippings, street plays, dramas and movies.

27. A coordinated effort by all segments of the society including intervention by the NGOs should be utilized to reduce the incidence of domestic violence against women.

28. Women should be empowered economically, socially, legally, politically and in cultural spheres too. It will effectively reduce the incidence of violence against women in domestic relationship.

29. Women should be provided with the necessary socio-cultural space to conceptualize and articulate their issues.

30. Both society and law have to work in tandem to ensure that women get due regard and status within the social structure in which home is the starting point.

31. There is need to provide women with the information about the various government programmes and schemes specifically formulated for the welfare of women and helping them to access these programmes and schemes.

32. There is need to strengthen or develop consistent reporting tools for confidential and effective reporting of violence against women to police.

33. Police plays a major role in tackling the cases of domestic violence against women. They need to be sensitized to treat the cases of domestic violence against women as seriously as any other crime. Special training to handle domestic violence cases should be imparted to police personnel.

34. There should be a separate wing of police, headed by a women police officer to deal with women’s issues, attached to all police stations and should be excluded from any other duty.
35. Women police stations, called ‘Mahila Thanas”, should be established at all district.

36. There is need to form strategies to settled the matters of domestic violence at pre-complaint level.

37. There is need to establish link between courts, police, service providers as under Domestic Violence Act, and communities with the aim of monitoring the safety of victims of domestic violence during protection order as issued under Domestic Violence Act.

38. The family courts have not been established by most of the state government though the Family Court Act was enacted in 1984. Family court should have jurisdiction to try all issues, pertaining to family unit, from dowry harassment to domestic violence.

39. Female public prosecutors and female judges at all levels of judicial hierarchy, should be recruited. This will help the victims of domestic violence and also change the attitude of the judiciary towards domestic violence.

40. There is need for systematically documenting the procedural lapses while dealing with the cases of domestic violence and their cure by positive step towards improvement of those procedural lapses.

41. There is need to educate the police to develop positive attitudes and skills in dealing with gender violence.

42. Police should be pressurized to act according to law while dealing with the cases of violence against women, and follow suitable legal procedures and prosecute the perpetrators of domestic violence.

43. Government should ban the sale of liquor as it is considered one of the main reasons of domestic violence against women.

44. Victims should resist the incidents of domestic violence.

45. Women should realize the power hidden in them and make use of the same to counter the violence against them.
46. Special/fast track court should be established to speed up the disposal of cases relating to domestic violence against women.

47. Government should set up help lines to advise/redress the issues/grievances of the victims of domestic violence.

48. There should be provision of free medical and legal aid to the victim of domestic violence.

49. Police should be directed to act promptly in cases related to crime against women by registering F.I.R.

50. Counseling centre should be established to strengthen families and family ties.

51. In the definition of the term ‘Respondent’ appearing in section 2(q) of the Domestic Violence Act, the words ‘or female’ shall be inserted, so that the word respondent means any adult male or female person.

All these suggestions if implemented will be helpful for the protection of women from domestic violence.