CHAPTER 1

General Introduction

1.1. Introduction

According to the Merriam Webster Dictionary, ‘domestic’ relates to or involves someone’s family or home and ‘violence’, simply put, means the use of physical force to harm someone, to damage property, etc. Thus, in simple words, domestic violence implies the use of physical force to harm someone in the family by another member of the family. Domestic violence has been often taken as physical violence and it undoubtedly includes such assaults but an important part of this violence is mental violence which is so slow and subtle, and yet devastating in its after effects. Thus, it refers to any form of violence by an intimate partner or by other family member. In the Indian context, the definition of ‘domestic violence’ is provided in Section 3 of the Protection of Women from Domestic Violence Act, 2005 as any act, omission or commission or conduct of the perpetrator which causes physical or mental or economic or sexual abuse to the victim.¹

¹ Section 3 of the Protection of Women from Domestic Violence Act, 2005 provides that “For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it-

(a) harms, injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any other person related to her by any conduct mentioned in clause (a) or clause (b); or
Domestic violence is a multifaceted and disturbing problem which occurs within the four walls of the home, unseen to the outside world. It is a universal phenomenon which is widespread in every society. It cuts across all backgrounds be it social, cultural, economic or religious. Domestic violence is essentially violence perpetrated by persons in intimate family relationships.

It is the establishment of control and fear in a relationship through violence and other forms of abuse. The violence may involve physical abuse, sexual assault and other threats. Sometimes it is subtler, like making someone feel worthless, not letting him or her have money, or not allowing him or her to leave the house. Social isolation and emotional abuse can have long lasting effects just like physical violence.

Domestic violence does not depend on age. It is not a gender-specific phenomenon either as it happens to both men and women alike. However, women are far more likely than men to fall victims of domestic violence. The most affected victims, physically and psychologically, are women, including single and married women and women separated or divorced from their partners. Either in marriage or in a relationship, women are at a higher risk of being targeted as a victim. Although both men and women can be abused, in most cases, the victim is a woman. Research from several parts of the world indicates that the perpetrators of domestic violence are predominantly male on his female sexual partner. Apart from violence between spouses, there can be violence

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between siblings, between other co-habited, abuse of children by parents and vice-versa.

The present study deals with domestic violence against women only.

Domestic violence against women or the physical, emotional and/or sexual abuse of women by their intimate partners or ex-partners is the most common type of violence against women worldwide. It is a traumatic episode for many women and girls in every part of the globe. According to a report of the World Health Organisation, around 35% of women worldwide have experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner at some point of their lives. Some national studies indicate the occurrence of physical and/or sexual violence from an intimate partner in 70% of the women.

Violence against women grows out of the nature of society. The social norms in our society justify male violence against women. It is generally believed that home is the only safe place for a woman. However, most acts of violence are committed on women in the home itself. Battering of various forms occurs within the four walls of the house. The issue of violence in the home has been a complex and troubling issue for women and girl children, with practices ranging from female foeticide to the evil of dowry and the range of abuses that surround it to widow immolation and desertion, making the family a site of great vulnerability for women.

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5 World Health Organisation. (2013). *Global and Regional Estimates of Violence against Women: prevalence and health effects of intimate partner violence and non-partner sexual violence*. Department of Reproductive Health and Research, London School of Hygiene and Tropical Medicine, South African Medical Research Council. p.2

Domestic violence is an affront to everyone, not only the victim. The process of socialization always aims at reinforcing the values justifying and strengthening the power relations in the social system. Women are expected to conform to the society’s ideals. In almost every society, the husband enjoys higher status than the wife. Social pressures force women to maintain the status-quo. Domestic discord often leads to battering of wives at the hands of their husbands or in-laws. A woman who does not accept the traditional role of submissiveness and subordination needs to be tamed into accepting this position and any means specially violence is justified in achieving this goal. Women themselves are passive victims. All too often women believe it is a sign of commitment, an expression of love, to endure unkindness or cruelty, to forgive and forget. There is legitimization of intra-familial violence and the victimization of women. The Indian society is a traditional society where women have been socially, economically, physically, psychologically and sexually exploited, sometimes in the name of religion, sometimes on the pretext of writings in the scriptures and sometimes by social sanctions. Domestic violence is one such instance of exploitation and torture which an average Indian woman has to face. Domestic violence in India has many aspects. It has extended into a new dimension which is related to both economic as well as social problems in the form of dowry demands by the bridegroom family and in case

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these are not met, atrocities of various types are committed on the person of the bride which in the extreme cases led to their death.\textsuperscript{10}

Indian society is primarily a male dominated society wherein man occupies a superior status and the woman is merely his appendage. A woman is never an entity in her own right. Men are consciously taught to be aggressive and tough while women are conditioned to be submissive and docile. Although social realities of life have changed drastically, the old thinking about submissive and dependent role of women has not changed even today.

Indian society is crystallised in a matrix of patriarchy. Socialisation patterns ensure the continuing dominance of male values over female ones. The emphasis on strength for male and corresponding emphasis on timidity, fragility and submission for women clearly indicates that violence in any form i.e. physical, verbal or attitudinal becomes the distinguishing characteristic of a masculine male.\textsuperscript{11} Thus within the family the male enjoys higher status than the female, who is considered inferior and subordinate. Social pressures force the women to maintain the status quo. Most often any means especially violence is tolerable to make a woman accept the traditional role of submissiveness and subordination.

Domestic violence is almost always shrouded and concealed by the myth of ‘family privacy’. Even the victims of such violence hesitate to speak about it and seek redress because they find it humiliating and disrespectful. Women have been conditioned into playing their accepted submissive role by the socialisation process.

\textsuperscript{11} supra note 7. p. 30\end{flushleft}
The practice of husband assaulting his wife is socially traditional but not legally legitimised. Domestic violence is a serious social problem. Often, seeing no life beyond such relationships, a woman limits her cries to within the doors of her own home. Women who are the victims of domestic violence are unable to leave abusive situations due to several social and financial factors. Some women face stronger social pressures than others to be silent about domestic violence, which is largely viewed as a private family matter. Gender based roles and expectations regarding division of labour and behaviour in the household served as an excuse for reinforcement of violence. Even though there have been various changes in the society, there is hardly any long-term solution to the various forms of violence against women.

Domestic violence has become a major issue of concern and debate at the international level since the late sixties and has gained greater momentum following the Battered Women’s movement of the Eighties. The existence of this social malaise has been acknowledged in the Vienna Accord of 1994 and Beijing Platform for Action (1995). The intervention of the State to protect women against violence of any kind especially that occurs within the family has been strongly recommended by the United Nations Committee on Convention on Elimination of all forms of discrimination against women.

In the 1980s two tremendously important Acts that brought domestic violence out of private closet into public domain in India were enacted. The first of these was the introduction of section 498A of the Indian Penal Code, 1860 brought in by the Criminal Law (Amendment) Act 1986, which criminalised violence in marriage, both physical and mental, inflicted on women. The second was the new provision of section 304B of the Indian Penal Code and the Dowry Prohibition (Amendment) Act, 1986 read with section 113B of the Indian Evidence Act, 1872 creating a new offence of dowry death.
Section 498A has limitation as it does not take into account the day-to-day violence in the household. It is ineffective for unmarried, widowed, separated or aged women who are subjected to varied forms of violence inside their homes. At least 119 countries have passed laws on domestic violence.\textsuperscript{12} India also passed the Protection of Women from Domestic Violence Act in 2005 to deal with the problem of domestic violence against women.

The Protection of Women from Domestic Violence Act of 2005 which specifically deals with violence committed against women within the safe confines of their home away from public glare is an important legislation. In the statement of objects and reasons given in the Act, it has been mentioned that domestic violence is without a doubt a human rights issue. It elaborately describes the various forms of domestic violence and the reliefs and remedies available to a woman who has been a victim of domestic violence under the Act. The legislation seeks to provide a remedy under the civil law “which is intended to preserve family life while providing protection to victims of domestic violence”. Data on Protection of Women from Domestic Violence Act, 2005 was collected by the National Crime Records Bureau (NCRB) for the first time in 2014. According to the NCRB, a total of 426 cases were reported under this Act.\textsuperscript{13} Though the extent of loss on account of domestic violence in India cannot be very accurately judged in the absence of reliable statistics yet its magnitude can be gauged to some extent by the reported cases.

\textsuperscript{13} National Crime Records Bureau: Crime in India 2014
Although the legal remedies are available, the ways in which they are used and interpreted, leave women without necessary protection. Legal remedies in themselves can achieve little when faced with society’s unwillingness to treat domestic violence seriously. The media has reported profusely on bride-burning, rape, eve-teasing and sati but not on domestic violence. There is hardly any reporting of domestic violence with the police, although at times, it may result into serious physical injuries. People seldom have knowledge of the ill-treatment of women inside the home until the victim required hospital treatment or was dead.

1.2. Aims and Objectives

Since the enactment of the Protection of Women from Domestic Violence Act, 2005, many cases of domestic violence have come forth before the courts of the State. This indicates that despite the assumed high status of women in Manipur, some sections of the womenfolk in Manipur are victims of domestic violence. However, few research works have been done on domestic violence against women in Manipur.

The geographic frame for the present study are the two districts of the state of Manipur, viz. Imphal (West) and Imphal (East). The Jiribam subdivision of Imphal (East) district has been excluded in this study because of the inconvenience to the researcher to visit the area for collection of data. The researcher has chosen these two districts mainly because of the reason that the majority of the population in these two districts belongs to the Meitei/Meetei community and the researcher desired to study the prevalence of domestic violence amongst the Meitei community. The tribal communities have their own set of customary laws so they most often do not approach the courts to deal with their matters. It is for this reason that the researcher has limited the study only to the Meitei-dominated districts of Imphal (East) and Imphal (West).
Although many cases of domestic violence have been filed in the courts in the Imphal (East) and Imphal (West) districts of Manipur, the problem of domestic violence is far from being solved as some women still suffer in silence inside the confines of their home. Moreover, this issue is still seen as a family-centred problem. As such, the real magnitude and extent of the problem of domestic violence in these two districts is still unclear. Numerous issues regarding domestic violence in these two districts of Manipur are still under-researched. There is still minimal literature on domestic violence common among women of different caste or class or social strata in the Imphal (West) and Imphal (East) districts of Manipur.

The need to enquire into the root causes of the evil of domestic violence in a society which boasts of the extraordinary contribution of the women population in every field is a driving force of the present study. It is acceptable that research in this area is not very easy. The purpose of this study is to add to the growing literature on domestic violence against women in Manipur. This study aims to examine the nature of judicial activity in domestic violence cases in the Imphal (West) and Imphal (East) districts of the state of Manipur. The present study seeks to highlight the under-reporting of cases of domestic violence by some abused women. This investigation aims to find out what might be the typical barriers which make some women tolerate domestic violence in silence. This study will provide an understanding of the types of domestic violence, be it physical, social, emotional, sexual or economic, suffered by victims/survivors of domestic violence. The study also aims to provide reliable estimates of the prevalence and incidence of domestic violence against women; it will also provide descriptive data on the victims and perpetrators. It will provide an understanding of the ways in which the judiciary handles this delicate issue.
The study is intended to provide a glimpse into both the severity and endemic nature of domestic violence in Manipur. It can provide important data on experiences of violence and trends according to community, age and educational level. The findings of the study and careful examination of the factors behind domestic violence and how women handle it, can help guide the design of appropriate intervention strategies in future. The research will also help to increase understanding of social and economic pressure that limit the power and options of women in violent relationships in Manipur.

The present study intended to accomplish the following goals:–

a) To give basic ideas of the violence suffered by Manipuri women in the domestic realm.

b) To identify the gap between the policy goal of the Protection of Women from Domestic Violence Act, 2005 and the present state of achievement in Manipur.

c) To study the pattern of settlement of cases of domestic violence against women in Manipur.

d) To enhance the access of women to the law especially with regard to domestic violence.

e) To find out whether there is any misuse of the law by women.

1.3. Methodology

The research design is explorative in nature. The present study is partly doctrinal and partly empirical. For the doctrinal study, the researcher has taken the help of books, international instruments, journals, magazines, newspapers and reports of NGOs
involved in activities related to women. This study is based on data collected from 80 cases of family violence disposed of in the courts in the Imphal (East) and Imphal (West) districts of Manipur during 2007 and 2010, and data gathered from interviews with the battered women living in the shelter homes (Swadhar) and the various agencies that worked to provide assistance to such women. However, the task of gaining access to the experiences of abused women was very challenging.

Taking into account the complexity and sensitivity of domestic violence and the diverse ethical issues involved in the investigation, a semi-structured interview methodology was followed by preparing an interview schedule consisting of the background information including age, marital status, education, occupation, income, and the questions related to domestic violence as per WHO ethical and safety guidelines for domestic violence research was used in the research. This offered the researcher an interactive approach which gave ample opportunity to the researcher to remove doubts and defects on the spot and understand the situation through personal observation. It thus made it possible for the researcher to collect the maximum information during the course of the interviews. These face to face interactions with abused women provided the primary source of data of the present work. In addition, the researcher also used an interview guide for collecting information from Service Providers and office-bearers of some women’s organisations.

The survey through the interviews was introduced to the respondents as a survey to learn about women’s experiences with domestic violence which can be helpful to other women in the state of Manipur. Also Respondents were assured the survey was purely for academic purpose and that all responses would be kept strictly confidential. They were also informed that their participation was completely voluntary.
The analysis is not based on any scaling technique. It is only a qualitative evaluation that reflects the attitudes of society towards the problem of domestic violence. With help of computer, bar diagrams were drawn to indicate the results. As the research design is of exploratory nature, statistical tests are not used for the sample data.

1.4. Review of literature

A review of available literature on issues of domestic violence against women has been done so as to have a better understanding of the matter in concern. Invaluable information collected from different sources have been studied and put into the context of Manipuri society.

‘Domestic Violence: A Reference Handbook’ (2nd Edition, 2008) by Margi Laird McCue provides a broad and in-depth examination of domestic violence by exploring the issue from historical, social, psychological, and legal perspectives. It also gives comprehensive information about domestic violence regarding its definition, possible causes, and extent, vulnerable persons, available services and feasible solutions.

‘Violence in the Home: Multidisciplinary Perspectives’ authored by Karel Kurst-Swanger and Jacqueline L. Petcosky (2003) reviews the theoretical explanations of family violence and then links theory to practice. It looks at the systems and institutions that interact with families, which are mandated to provide protection and services, and explores the current debates surrounding family violence and public policy. In addition, the book also explores the role of power in abusive relationships and considers the short- and long-term consequences of abuse.

The situation of domestic violence against women arises out of a patriarchal family system in which the husband’s authority over their wives create a “particular marriage
power relationship” and a subordinate status to wives and mothers (Dobash and Dobash, 1979). Despite over twenty years of activism against women, the lives of large numbers of women rest on “a continuum of unsafety” (Stanko, 1990).

Different studies establish that wife abuse is quite widespread around the world and are caused by several factors. Women’s vulnerability and a man’s propensity to abuse women increase the risk of domestic violence. Male dominance and female subordination is viewed as a normal condition, but when some inconsistency develops in the status of either husband or wife, wife abuse results. (Bhatti, 1989; Jain, 1992; Yllo, 1983). Thus, power imbalanced relationships are associated with spousal abuse, especially when the imbalance threatens the male’s power (Harris et al., 1979). It is believed that wife-beating tends to decrease in frequency when decision-making becomes more egalitarian (Bowker, 1983; Coleman & Strauss, 1986). Hauser (1982) however argues equal power is seen as a lower position for the husband and a higher position for the wife, as a consequence, husbands refuse to accept egalitarian way of living and violence continues as a means to maintain the status quo.

Kathleen J. Tierney in the article “The Battered Women Movement and the Creation of the Wife Beating Problem” opined that the issue of wife beating came to the forefront because of the development of a social movement which developed in the 1970s to help battered women. It is further argued that the growth of the battered women movement illustrates the creation of a social problem.

Some researchers argue that many abused women cope up with violence by leaving the abusive relationship. It has been noticed that women who are employed, who get support from their family of orientation, friends and who do not have children are more
likely to leave the abusive relationship (Gelles, 1976; Moore, 1979; Okun, 1988; Strube, 1988).

In Rekha Roy’s “Women’s Rights in India: A Feminist Perspective”, the author has opined that the deterioration of women’s status in India is a deliberate male scheme drawn from the socio-political setup of patriarchy by using culture and religion to subjugate women in the society.

Rama Mehta’s ‘Socio-Legal Status of Women in India’ (1987) tries to understand women’s position in a socio-legal context. A part of the book deals with the Western aspect which gives it a comparative touch. The book also includes the Indian perspective, constitutional framework and the laws enacted for women in particular.


In ‘Women, Law and Social Change in India’ by Indu Prakash Singh (1989), the author has concluded his study on the point that the dialectics of law has not been able to redeem women from the patriarchal ‘ethos, ambience, mores and norms’ obviously due to the sway of patriarchal fundamentalism, and patriarchal propelled retrogression.

Manjula Batra in her book ‘Woman and Law and Law relating to Children in India’ (2001) has included women-related laws providing rights and remedies for women in India.

‘An Eagle Eye on Dowry Demand Cruelty & Dowry Death’ by Ish Kumar Magoo (2004) deals with all aspects of dowry and dowry-related offences with reference to
case laws. It also mentions some flaws and certain suggestions for the implementation of law in true manner and spirit to change the position of women in the society.

Dr. S.C. Tripathi & Vibha Arora’s ‘Law relating to Women & Children’ (2015) touches every delicate aspect concerning women. It also contains important judicial pronouncements of the judiciary.

The above mentioned books on women and law in India give an insight into the socio-legal status of women in human society, particularly in the Indian society. A study of these books provided knowledge of the various International Conventions relating to women and Indian laws for the welfare of women.

P.K. Das in his book ‘Protection of Women from Domestic Violence Act & Rules’ (3rd Edition) (2009), has discussed the different relevant parts of the Protection of Women against Domestic Violence Act, 2005 in a sequence so as to give a systematic complete approach to the subject. This book has helped to gather knowledge about the various aspects of legislations on violence against women, international conventions relating to women and judicial precedents in domestic violence cases.

A review of the literature on the status and role of women in Manipuri society is pertinent to the present study. ‘The Meitheis’ by T.C. Hudson contains vivid description of women in Manipur during the British rule. Ethel Grimwood in her ‘My Three Years in Manipur’ also provided an insight into the high status and freedom enjoyed by women of the then Manipuri society compared to women in other parts of India.

‘A Short History of Manipur’ (1965) by R.K. Jhaljit gives a historical knowledge of Manipur from 33 A.D. In ‘History of Manipur’ (1958) by Jyotirmoy Roy, the author
presents a brief account of Manipuri social organisation, and a sketch of the culture of Manipur.

‘Women of Manipur: An Alternative Perspective’ (2014) by Salam Irene focuses on the contradictions inherent in the popular belief that women in Manipur enjoy a high status in the society. It also throws some light on the vulnerability of Manipuri women to various forms of violence, both in the public arena and the private domain. Though domestic violence against women is a daily occurrence in Manipur, the supposedly empowered Manipuri woman who is generally active in the social arena becomes docile and submissive when it comes to violence suffered at the hands of a family member. The author discusses possible factors which are responsible for the occurrence of domestic violence in the Manipuri society. It is also mentioned that the issue of domestic violence has been neglected in Manipur as the magnitude and extent of domestic violence seems trivial in comparison to the magnitude of state violence and other community-related conflicts.

Most of the researchers agree with the viewpoint that the root cause of domestic violence against women can be traced to societal values and that unless social definitions are changed and women are allowed to have egalitarian way of life, domestic violence against women in one form or the other would persist.

The review of the literature helped in providing a guideline for research on domestic violence. Most of the studies have, however, not provided holistic means to prevent the occurrence of domestic violence against women. Additionally, in the context of Manipur, the number of systematic scientific study for understanding the nature of the phenomenon has been tardy. Research on domestic violence in Manipur is sparse.
because as the problem is extremely sensitive it is difficult to probe into the personal lives of the women who are generally reluctant to disclose experiences of violence inside their homes. Though there has been an increase in research on domestic violence against women and an enormous amount of information is accessible on the Internet, there is little available information on the problem of domestic violence against women in Manipur particularly the Imphal (East) and Imphal (West) districts of the state.