Violence against women is a manifestation of historically unequal power relations between men and women, which has led to domination over and discrimination against women by men and to the prevention of the full advancement of women. Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. Violence against women is always legitimised by arguments of ‘culture’ as no society is devoid of culture. The patriarchal culture inevitably validates violence as an acceptable, even desirable, attribute of masculinity tends to de-values women and all attributes considered feminine and thereby intervening into relationships. The age old philosophical perceptions on the role of women permeate in all man-woman relationships within the four walls of the home which is considered as the repository of love, warmth and affection.

Family forms the basic unit of social organization. It is an inevitable part of human society. It is the primary institution of any society and is formed by the ceremonial marriage of males and females, resulting later in the birth of offspring. All the societal forces are used for its support and protection, for

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through it, societies perpetuate themselves both culturally and biologically. The family, therefore, is a socially recognized unit of people related to each other by kinship, marital, and legal ties. The World Population Plan of Action which emerged from the World population Conference 1994 recommended that a) family to be protected by appropriate legislation, b) family ties to strengthened by giving recognition to the importance of love and mutual respect within the family units, and c) measures to be taken to protect the social and legal rights of spouse and children in the case of dissolution or termination of marriage by death or other reason.

Every society implies its ultimate control over this unit by its institutionalization of marriage and the definition of rights and obligations that arise as a result of marriage and consequent reproduction. Through this ideology, women are constructed as wives and mothers, having vested with the duty of child rearing and domestic labour. Men on the other hand are constructed as husbands and fathers, responsible for the financial welfare of the family. The sexual division of labour was closely associated with the emergence of the family wages. In the process it led to women’s economic dependency on their husbands.

The emergence of the private i.e., domestic sphere and the public sphere was a natural outcome of the familial ideology. Women’s role within the domestic realm as wives and mothers was regarded as a natural self-evident product as to their biological role in reproduction. These ideas nurtured and reinforced the public/private distinction, and the construction of family and domestic relations as something private. Family has been understood as beyond the state intervention operated to immunize the oppression of women within this domestic sphere. Thereby the authority structure came to be considered as patriarchal; succession to be patrilineal and living arrangements to be patrilocal, marked by unequal gender relations of power running along the
gender lines in which man’s powerful position and woman’s subordination is accepted as a social norm to be conformed.

1.1 General Understandings of Violence and Domestic Violence

Questions of how family violence is defined, how commonly it occurs, and how gendered are its origins and its expressions, go to the heart of our understanding of and our responses to this phenomenon. Though considerable progress has been made, none of these questions are settled. Therefore legislative definitions continue to vary, as do definitions employed by the social sciences and health and welfare service providers. Differing definitions also reflect differing assumptions and differing emphases regarding the broad nature of violence, particularly family violence.

The evolutionary motive force for human rights is the mankind’s demand for decent civilized life in which the inherent dignity of each human being is well respected and protected. There is no universal agreement about the definition of violence. Definitions reflect societal values, which are subject to historical and cultural change. Furthermore, definitions are influenced by philosophical, juridical, sociological and criminological debates. Domestic violence or violence within the family is a universal phenomenon, though its manifestation varies depending on the social, economic and cultural background. It is one of the most insidious forms of violence against women, and is an issue which is often shrouded in silence and cloaked with societal shame.

Collins Dictionary defines violence as: (1) “Behaviour which is meant to hurt or kill people;” (2) “a great deal of energy used in doing something—usually because you are very angry;” (3) “words, actions or other forms of..."
expression which are critical or destructive.” The Oxford Dictionary defines violence as (1) “the quality of being violent;” (2) “violent conduct or treatment, outrage, injury;” 3(a) “the unlawful exercise of physical force;” 3(b) “intimidation by the exhibition of this.” The Roget’s Thesaurus adds few dimensions to the concept offered by the earlier two dictionaries. It indicates that the noun violence connotes vehemence, impetuosity, vigoroussness, excess, destructiveness, vandalism, turbulence, turmoil, roughness, severity, brute force, brutality, savagery, mercilessness, exacerbation, and explosion. The adjective ‘violent’ is explained by the terms aggressive, charging, disorderly, intemperate, immoderate, anarchistic etc.3

Violence in general is a coercive mechanism to assert one’s will over another, in order to prove or feel a sense of power. Violence is an act committed to put down, silence, and to keep under control someone with the intention of hurting or humiliating the person. It can be perpetuated by those in power against the powerless, or by the powerless in retaliation against coercion by others, to deny their powerlessness. The power exerted by the state is accepted as legitimate means of resolving a problematic situation. One of the core elements of violence is that the coercion involved is neither legitimately nor socially acceptable. Any hierarchical system of social organization, where there are categories of dominant groups and subordinate groups, is inevitably accompanied by the victimization of the latter through various means- subtle pressure, through the power ideology, through mechanism of socialization that reward compliance and punish non- compliance and also through open force. Any individual or group facing the threat of coercion or being disciplined to act in a manner required by another individual or group is subject to violence.

Domestic violence is violence that takes place between people on private territory. The term domestic violence depicts violence between individuals who are usually bonded through law, blood or personal intimacy.

Psychologists assert that people deal with their own insecurities and inadequacies by abusing and controlling the lives of others within the safe precincts of domestic walls. The domestic situation usually makes the abused very vulnerable and fragile. Violence on the domestic front has been a part of human society since times immemorial. Violence does not only include beatings, rape or sexual abuse, it is anything which infringes on the rights of the person to be treated as human being. Those violence which occurs within the periphery of household is domestic violence.

The term domestic violence is often held synonymous with terms like ‘family violence’, wife battering, wife beating, husband beating, husband abuse, wife abuse etc. In recent times words like “battering” and “battered” are less accepted because they do not cover other forms of violence which go beyond physical abuse. These other forms of abuse also have the potential create to severe mental and emotional disorders in individuals which can escalate in to acts of suicide and self-damage. According to the myth of family sanctity, in which tranquility and family harmony reign supreme, domestic violence exists as a veritable incongruity. Taking into account the economic dependency of women in the family ant the so called patriarchal family system in existence, it is invariably a gendered crime perpetrated by men against women.

In contemporary legal definitions, the issues of power, domination, and control are also explored to discover the intent behind domestic violence. The World Health Organization has defined partner violence as any behaviour within an intimate relationship that causes physical, psychological or sexual harm, including:

1. acts of physical aggression, such as slapping, hitting, kicking and beating;

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4http://www.domesticviolence. Last visited on 18th May 2010
2. psychological abuse such as intimidation, constant belittling and humiliation;
3. forced intercourse and other forms of sexual coercion; and
4. various controlling behaviours such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance\(^6\)

Domestic violence, as the Office on Violence Against Women of the US Department of Justice defines it, is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, coerce, threaten, blame, hurt, injure, or wound someone.\(^7\)

The Children and family court advisory and support service in Britain uses the term domestic violence to refer to a wide range of abusive and violent behavior in its “domestic violence policy”. It defines domestic violence as “patterns of behavior characterized by the misuse of power and control by one person over another who are or have been in an intimate relationship.”\(^8\)

The contemporary definition of domestic violence is multidimensional, space-neutral, and inclusive in nature. Laws are also increasingly defining domestic violence as a process of domination, exploitation, and de-humanisation. This broader definition of domestic violence that has gained ground in law and of the world engaged in legal reforms in domestic violence.\(^9\)

\(^8\) http://definitions on domestic violenceuk.org. Last visited on 23\(^{rd}\) December 2009
1.2 Specific Understanding of Domestic Violence

In the following chapters the terms, ‘domestic violence’ and ‘abuse’, will be used to refer to the physical, emotional and/or sexual abuse of a woman by a male with whom she has or has had an intimate relationship. The women victims are considered irrespective of their status they hold within the household like sister, mother, daughter in law etc. The violence addressed against the women is envisaged as violence in a man and woman relationship within the domestic precincts of family. The family includes both natal and matrimonial family system. Domestic violence is what happens among persons in domestic relationships and generates within the privacy of the four walls of a home. It encompasses abuse of all kinds of physical, psychological, sexual, economic, emotional and verbal. Domestic violence is all about power relations and the abuse of power in a household. It is perpetrated by one member or members collectively on another to gain control. It leads to the violation of series of human rights guaranteed to her by virtue of various international, national and regional human rights instruments.

As opposed to the general construction, domestic violence in the study refers to violence occurring within a man-women relationship. While recognizing that other forms of violence are equally worthy of attention, this study does not cover the violence inflicted on women by strangers outside the home – in public places such as streets, workplaces or in custody, or in situations of civil conflict or war and violence against immigrant women.

Domestic violence has five salient features: Firstly, it is perpetuated by someone in domestic proximity and relationship to the victim, generally her life partner or some other intimate family member; secondly, it happens in domestic settings which are generally outside the law because the precincts are presumed by society to be sites of support and care and within private province and not for public discourse; thirdly, it is marked by a recurrence generally falling into a cycle; the abuse is followed by a lull of prelude after which tensions build up again precipitable as another violent episode; fourthly, the abuser uses domestic premises to control and coerce the victim; and finally the abuse leaves profound emotionally and psychologically harmful effects on the victim.
The term private used throughout the study refers to the familial/territorial space where members of the family are associated and linked together by ties of blood, consanguinity and marriage (intimate hierarchical relationships) symbolic to Indian culture. The study does not make any difference between the nuclear families that have arisen as a result of industrialization and the old joint families or the extended families. In this study, the use of term Indian family set up refers to the dominant Hindu culture, the largest cultural group in India.

1.3 Understandings as to Causes of Domestic Violence and Some Explanatory Models

Just as there is a lack of consensus on a single definition for domestic violence, “there is no single recognized causal theory for domestic violence. Why a woman becomes more vulnerable is to be explained in relation to the specific socio cultural context she has to exist. It is often difficult for a woman to report violence, pursue legal action or end the relationship because of: fear for her safety or that of her children, fear that her children will be apprehended or taken away by the husband if it is alleged that she is in some way an unfit mother, influence of her extended family or children, emotional attachment and loyalty to the abuser, low self-esteem and self-blame, economic dependency on the abuser, religious values or pressure from the cultural community, for immigrant women, fear of deportation, social isolation and lack of a support system, authorities denying, minimizing or rationalizing the severity of the violence and above all lack of legal information about victims’ rights.11

A number of explanatory models have been postulated to explain violence within the family. Initially, intra-personal models focused on theories of violence originating in the psychological abnormalities of the perpetrator,

11 Maya Majumadar, Social Status of Women in India, Dominant Publishers and Distributors, New Delhi (2004), p.23
frustration because expectations about family members are not met, or the result of dysfunctional familial relationships. In contrast, socio cultural models emphasize social structure, norms, and values as causal variables in the emergence of family violence. For example, the socio-learning approach to violence emphasizes the influence of such variables as occupational status and parent modeling. In particular, gender-sensitive approaches emphasize gender roles and expectations and the devaluation of women’s work inside and outside the home as crucial to understanding family violence.

The ecological model combines these various elements in a systematic manner. This model is based on the understanding that domestic violence is the result of a combination of social and individual factors and can best be visualized as four concentric circles. The innermost circle represents the biological and personal history that each individual brings to relationships. The second circle represents the immediate context in which abuse takes place, the family and/or intimate relationship. The third circle represents the formal and informal institutions and social structures in which relationships are embedded such as neighborhoods, workplaces, social networks, and peer groups. The fourth outermost circle is the economic and social environment, including cultural norms. These last two circles combine to include such things as socio-economic status and education level. In the ecological model, violence is usually associated with more than one factor and is not narrowly characterized by specific behaviors but encompasses the range of physical, emotional, and psychological behaviors that can harm an individual in the home.12

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Literature on domestic violence has extended a hand full of theories to explain the causes of domestic violence in a society\(^\text{13}\). The major theories that highlight the causes are:

1. **Feminist theory**: Giving much stress to gender and power, the theory states that domestic violence reflects the unequal power of men and women in the society and which is reflected in the personal relationships. The patriarchal structure of the society plays a dominant role in all most al the social institutions including the family.

2. **Family system theory**: The advocates of this theory highlight the sociological perspective emphasizing family structure as the cause of domestic violence. The family represents a unit of social relations with unique properties that make it a fertile ground for violence. The vulnerability of each of the members of the household is ascertainable and the membership in a family structure is not voluntary. The legal intervention in the familial domain is not acceptable. All these serve to cloak violence inside home.

3. **Psychological and physiological theory**: The individual problems are highlighted as the cause of domestic violence under this theory. It holds that personality disorders or early experiences of trauma predispose some individuals to domestic violence. People with such underlying problems or disorder may choose partners with whom they can re-enact the dysfunctional relationship they had with their parents. This refers to the neuro- biological sub traits of a human being having a predominant domination over the life situations of the individual. This theory refers to the behavior of the batterer/abuser in cases of domestic violence. It emphasizes the factors such as brain structure, chemical imbalance, dietary deficiency and hormonal factors as the root cause of

violent behavior which needs to be rectified first to put an end to such violent attitudes.

4. *Socio-psychological theory*: This theory stress external environment factors having impact on individual offender. Stressful situations or family interactional patterns are held as precursors to violence. This theory includes; frustration aggression theory, perversion theory, self - attitude theory, cycle theory of violence, theory of learned helplessness\(^{14}\) and survivor theory.\(^{15}\)

5. *Socio-cultural theories*: These theories highlight macro level analyses of violence perpetrated against the household members in a family. These theories state domestic violence in terms of socially structured inequality, socio-cultural attitudes and norms regarding anti-social behavior and interpersonal relations. It includes various sub theories like: structural–functional theory\(^{16}\), resource theory\(^{17}\), patriarchal theory\(^{18}\), social learning theory\(^{19}\) and exchange theory\(^{20}\).

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\(^{14}\) This theory states that a women’s experience of non-contingent nature of attempts t control violence would, over a period of time, produce learned helplessness and depression as the repeated violence diminishes her motivation to respond. Hence there will be passive acceptance of the exploitative situation.

\(^{15}\) Survivor theory views women are not passive victims but pro-active help seekers and survivors. This theory in contrast to the social helplessness theory credits women with the capacity to innovate newer strategies of coping and acknowledges the efforts of survivors in seeking help from formal and informal sources.

\(^{16}\) It asserts that social groups differ in respect t their typical levels of stress, deprivation, frustration and in the sources at their disposal to deal with these stresses. Those individuals with low resources tend to be more violent, Stress can arise out of economic imbalance, bad housing, lack of job opportunities, frustrating work conditions etc. Men and women are particularly attached certain determined social roles and expectations

\(^{17}\)The theory assumes that family like other social systems rests on some degree of force and power which is necessary to control behavior of members. The family as per the theory has 4 set of resources to maintain stability such as economic variables, prestige or respect, love and force of threat of force. Violence is employed either to dominate the position of torturer or for dealing with imbalance in family interactions.

\(^{18}\) This theory is the product of historical pattern of systematic violence directed against females in the household.

\(^{19}\) This theory hold s that those who witness violence between parents or who themselves experience abuse as children are likely to resort to violence in adulthood. This problem refers to the ‘inter-generational transmission of violence’. It means an individual resorts to violence through imitation.
From the analysis of various scientific theories, it is apparent that not one theory can fully explain the causes for perpetration of domestic violence. Rather than a single factor theory a multifactor theoretical approach or an integrated approach would explain causes of all types of violence related to domestic violence.

1.4 Causes of Domestic Violence in the Indian Context

The family and marriage are institutions in India where women and men are socialised to perform strictly defined gender roles. These institutions remain the foundational stones of the Indian society. At one end of the spectrum, the causes may be personal or individual but they also have roots in the political, economic, social and cultural arrangements. The probable causes are multiple and have to be explored in all its dimensions in the Indian cultural backdrop.

1) Patriarchal engendering and shaped understandings

In a patriarchal society, like India women generally do not possess and have access and control over the entire spectrum of resources be it physical, financial, intellectual, and technological social or political. The decision making capacity of women as to labour, fertility and sexuality are supposed to be with the males in the family. Patriarchal attitudes and paternalistic attitude of the society also denies access and control over ideology to women. Ideology is a complex structure of beliefs, values, attitudes and ways of perceiving and analyzing social reality--virtually, ways of thinking and perceiving.

The Indian culture upholds the sanctity of family and simultaneously privacy within families. The duty of preserving family honor is vested in women. The female who endures and suppresses her feelings and expressions is considered to fulfill her duty to protect the ‘honor’ of her husband and his

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20 This theory explains growth of anger and violence when the principle of distributive justice is violated. The theory describes violence on the basis of interaction between intimates that is guided by the pursuit of rewards and avoidance of punishment and costs. By applying the theory to the family violence, it may be said that people will use violence in a family if the cost of being violent does not out–weigh the rewards.
family. Again the notion that nobody needs to intervene when a man is violent towards his wife, sister or mother is a norm. All this ensures a very intervention free environment for men to perpetrate violence on women.

This shaped understanding leads to the outcome that in patriarchal set up, women have lot to lose if they do not conform to the norms and beliefs of the society and everything to gain if they conform. The patriarchal ideology is so insidious that women themselves become the propagators. Women who are in advantageous position in patriarchal set up like the mother in law and sister in law internalize the ideology and values, and become perpetrators themselves.

Another common feature of patriarchal set up in India is the son preference. In a patriarchal culture daughter is a *paraayadhan*, a prospective outsider once she is married off. She is a burden for the natal family until she gets married. Any family assets given to her go out of the family. It is the developed notion that son is the one who looks after the parents in the old age. Thus there always has been a son preference in the patriarchal set up.

Dowry is a tool of patriarchal oppression. Dowry expenses gain priority over education expenses of the girl child. Due to the socio-economic and cultural deprivations, women are reared in an atmosphere which slowly but positively helps in the development of inferiority status. They become used to the institutional legitimation of their low status and find nothing wrong in crimes and exploitations committed against them. They bear the toll as their fate and duty to be chastised by male members and remain silent.

Viewed in the light of marital power theory\(^\text{21}\), the patriarchal underpinnings in India is akin to the power process as described under the theory. The accumulation of assets and resources that provide the bases for one partner's domination over another is vested with the male in the family. Marital

power theory is wedded to resource theory at this juncture i.e., the decision making power within a given family derives from the value of the resources that each person brings to the relationship. This in turn leads to the male decision making process within the family. Accordingly those female partners who lack power will be more likely to domestic violence. These situations reinforce the culture violence theory.

2) Psychological dimension

According to psychiatric studies conducted, domestic violence can happen due to biological and bio-chemical causes also. Low serotonin, high dopamine, pre-frontal dysfunctions, low glucose metabolism, brain dysfunctions, seizure disorders can cause domestic violence. Personality disorders like anxieties, obsessions, frustrations, subordination, attitude about sex roles, guilty-conscience, jealousy, inferiority can cause Domestic Violence. Domestic violence can also be caused by psychiatric disorders e.g., psychosis (paranoiac, schizophrenic), obsessive compulsive disorder, mania, alcoholism and rug addiction.

According to the Freudian concept, every person has a reservoir of natural drives of which an aggressive element is a major component, which is suppressed or transformed by the development of the ego element, which is the conscious part of the personality. If during the socialization process, the ego is not developed properly, the personality becomes faulty, and natural drives manifest overtly in the form of aggressive behavior. Aggression may be inflicted only on that person who will not react or question the authority. This cause of domestic violence naturally symbolize with the Indian set up where the family values rule the domain and a women is viewed as submissive.

The Bio-psychosocial perspective reinforces the psychological theory and ties together biological (testosterone levels, alcohol abuse) factors, social factors such as the level of social stress, quality of the relationship, the income and extent of social support available; and psychological (antisocial tendencies, hostility, egocentrism, need for gratification or attention).

Traumatic bonding theory seeks to explain why Indian women remain with men who abuse them. As power relationships polarize over time, the powerless individual in the relationship becomes increasingly dependent on the dominator. In addition, moments in between abuse are times when positive displays of love and affection cement the legitimacy of the relationship presenting an viscous circle leading the victim to see the world from the abuser’s perspective. Thereby a culture of silence is produced where violence is shrouded in silence due to fear of stigmatization.

3) Socio-Cultural Dimension

Prevalence of violence in family, broken home environment, parental alcoholism and drug addiction, poverty, low status mother, prostitution, unemployment, association with criminal gang can cause domestic violence.

All these above factors throw light on the probable causes to the issue of domestic violence perpetrated against women in India. To conclude, in simple terms, the plight of a victim of domestic violence in the Indian context is as expressed by Rebecca J. Burns in the following words:

“When I am asked why a woman doesn’t leave abuser I say: Women stay because the fear of leaving is greater than the fear of staying. They will leave when the fear of staying is greater than the fear of leaving”.

24 Ibid.
This implies that, an average Indian woman has a tendency to bear the harassment that is perpetrated against her either by the natal family or by her husband and his family. In a man women relationship within the household a common Indian house wife has a tendency to bear the harassment she is subjected to by her husband and the family.

Theories along the entire spectrum from individual to social structural reveal the causes of domestic violence against women in the society. The whole range of theories in one way or the other is attributable to instances of domestic violence decipherable in India and each theory needs to be well acknowledged to understand the problem holistically.

1.5 Indian and Western Concepts on Familial Relationships

India is a multifaceted society where no generalization could apply to the nation’s various regional, religious, social and economic groups. In India, the family is the most important institution that has survived through the ages. A multi-generational household has always been an integral part of the Indian culture. It acts as: the transmission belt for the diffusion of cultural standards to the next generations, a psychological agent of society, a shock absorber, and an institution of many enhancing and valuable qualities. Indians relate themselves with the relational world view25. The concept of Dharma is understood and assimilated in the Indian context as a way of life and not sermonic preaching. Science and spirituality co exists without antagonism unlike the west.

In comparison with the West, Indian family structures are based on different world views and ideas of self and are organized in different ways. In

25 Values group and collective survival, with a focus on working interdependently toward the good of all in the community; Values a holistic, ongoing process of growing and learning, where grey areas are well tolerated and accepted; Tends to value being as one with nature; Tends to value being in the here and now. The underlying question is “How?” as in how can things be better or how can I help.
the western culture, the idea of ‘separateness’ is considered as more central than the ‘connectedness’ that may exist between members of a system\textsuperscript{26}. The familial self is the basic, inner psychological organization of family members that enables them to function adequately within the intimate hierarchical relationships of the extended family. The predominant western mode of viewing self and family relationships appears to be contradictory here. There the individualized self (autonomy of the individual) is the dominant note, with background chords of the familial self\textsuperscript{27}. This type of system reflects the linear world view\textsuperscript{28}.

The Indians grow up in the extended families with members engaged in the activities necessary to maintain the group as a cohesive and co-operating unit. The ordering principles of this hierarchical set up are age and sex i.e., older persons decide and generally man make decisions in the household. The goal is to promote the survival and collective welfare of family members and to protect them from the incursions of the outside world. The overriding principles of this hierarchical system are experiences of the aged and the capabilities relating to the sex\textsuperscript{29}. It follows that the organizations of sub systems in India families will be different to those considered normal in western nuclear families. Marriages are between families not individuals, as per the Indian culture. The elevation of marital bond, their decision making power, is rather discouraged in the Indian set up. Therefore the intergenerational sub systems such as the mother-son dyad take precedence over the marital dyad.


\textsuperscript{27} Ibid.

\textsuperscript{28} Values individual survival, with a focus on achieving independence as a hallmark of success Tends to value having power, ownership, and control over nature; Tends to value doing, with a focus on planning for the future; The underlying questions is “Why?” as in why did you do that or why did something happen.

\textsuperscript{29} Older family members have more authority than younger members and men have greater authority than women.
In India, when a bride enters her new family home, she occupies a very low position within the family hierarchy. She is naturally highly dependent on the goodwill of her in-laws, which means she is potentially very vulnerable. In a traditional Indian family, the wife is typically dependent, submissive, compliant, demure, nonassertive, and goes out of her way to please her husband. Women are entrusted with the responsibility of looking after the home and caring for the children and the elderly parents and relatives. In the Indian scenario, the relationship between a man and his wife continues to be a sacred one and is usually covered with secrecy, excluding the possibility of any authoritative intervention in violent cases, being a husband and wife private relationship issue. In addition to this, women of a family, whether it be the mother or wife, is considered to carry the dignity of the family. This fact worsens the problem much more and suppresses the consciousness of women to a great intensity, so much so that, they in many a case, despite their well-off social and economic status find themselves unable to voice against the atrocities inflicted on them.

In short the Indian family systems differ significantly from those in the West. Hence both the cultures will offer distinctive solutions to problem of emancipation from domestic violence against women. Both have specific conceptions of what constitutes healthy family, healthy relationships and of how social relations should be organized to achieve this ideal. It is within these power relationships that the conceptual adequacy of the Act is studied.

The whole thesis encapsulates the understanding that domestic violence is a human rights issue which sufficiently stands acknowledged. The difficulty exists in reconciling the fact in carving out a solution to make it applicable in the Indian scenario. Domestic violence or more simply violence at home is an invasion on one’s right to live safely. It infringes on one’s basic right to feel comfortable within the confines of one’s house which to all domestic violence victims is not a home, a home where one can live without any fear or insecurity. This form of violence predominantly harms a discrete group—women who are particularly vulnerable in part because of the way that group has been
treated historically and it is pervasive in every society worldwide\textsuperscript{30}. It leads to a multi-dimensional human rights violations, social, economic, physical, mental and so on. How the human rights violations occur in the process is explained with the help of the following diagram showing different violations that are likely to happen in a domestic violence case\textsuperscript{31}.

**Wheel of Control: Forms of Violations**

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(\textit{Source: Domestic Abuse Intervention Project, 202 East Superior Street, Duluth, MN 55802})
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\textsuperscript{30} UN Centre for Social Development and Humanitarian Affairs, ‘Violence against women in the family’(1989)UN Doc ST/CSDHA/2,14

\textsuperscript{31} This diagram represents a teaching tool that is made use of in the western countries by feminist advocates and social workers to explain the cycle of domestic violence perpetrated against a woman within the family atmosphere. This diagram is the first point of understanding the different forms of power and control exerted when domestic violence is perpetrated by the man against a woman within a household. See www.ncdsv.org/images/powercontrolwheelno shading.pdf. Last visited on 8 the August,2013
The intimate context of the violence produces an almost visceral reaction that what happens within the home is venerable, impervious to the strictures of law and law enforcement. The oppression of women in the family results in the maintenance of women as second-class citizens thus depriving the country of women’s full potential for taking part in the developmental process. This is a serious developmental problem for the country. Identifying the vulnerabilities that are peculiar to women is a necessary precondition to formulating applicable legal remedies to end systemic intimate violence. It is in this wider framework, that the violation of human rights of women occurring at the basic cell of the society needs to be viewed as a specific human rights violation from a larger sociological framework.

1.6 Objectives of the Study

1. To highlight the historical perspectives on the status of women;
2. To analyze the interface between domestic violence and human rights discourse;
3. To make a comparative study of the strategies to contain domestic violence in other western societies;
4. To examine the pre-enactment legal framework relating to domestic violence;
5. To make a critical assessment of the Act; and
6. To make suggestions for suitable changes in the policy.

1.7 Hypotheses

1. Domestic violence against women affects human rights adversely.
2. The Protection of Women from Domestic Violence Act is conceptually flawed in the Indian context resulting in extreme incidence of domestic violence against women.
3. The inadequacy of the provisions of the Act may disintegrate the cohesiveness of family system.

4. The manner of implementation of the Act fails to answer the current understandings of domestic violence holistically.

5. The Act is a mere adoption of western law out of tune with Indian cultural ethos and its established ideals resulting in systemic failures.

1.8 Research Questions

1. Does cultural and religious identity play a significant role in ordering man woman relationships in a shared space?

2. How does the International Human Rights discourse on domestic violence against women address the issue?

3. Does western models offer any solution or are they consistent in the Indian context?

4. What are the parameters of the pre-enactment provisions on this aspect?

5. Is the Act an efficient tool in solving the problem of women who are victims of domestic violence?

6. Do the rights guaranteed to the victims by the Act lead to restitutive/restorative justice?

7. What are the merits and demerits of the Act in its implementation process?

8. Do the judicial interpretations facilitate in promoting the objectives of the Act?

9. What are the issues and challenges emerging out of the new enactment?

10. Does the Act integrate or disintegrate the family relationships?
1.9 Methodology

The study is both doctrinal and analytical in nature. The doctrinal part examines the theoretical bases and legal solutions offered to deal with domestic violence. The legal provisions of Protection of Women from Domestic Violence Act are analyzed in detail and the problems and flaws therein are identified. The analytical part examines the need for culture specific treatment of the issue which is driven by family based culture of protection and care as an alternate mechanism to address the issue. The consequences of resort to criminal sanctions and alternate dispute resolution mechanisms in handling delicate familial matters are critically examined.

The relevant material is collected from primary and secondary sources. Apart from the statutes and judicial decisions, following are the sources: Scholarly books on domestic abuse in general and UK, USA and India in particular; Peer-reviewed papers in academic journals of various disciplines; Government publications, Reports and policy papers, relevant websites and databases of newspaper articles, newsletters and domestic violence manuals and guidelines.

1.10 Scope and Limitation of the Study

The study is an analysis on conceptual adequacy of Protection of Women from Domestic Violence Act, 2005 in comparison with the socio cultural realities of India. The study starts from a historical analysis as to the perpetuation of gender inequality in Indian and western jurisdictions. The international perspective or overview of international developments in the field of acknowledging the problem of domestic violence against women is analysed being the major premise of the study. In order to understand the Indian legal structure concerning domestic violence, a survey of the available existing legal options is made. The different kinds of laws and strategies, and their advantages and disadvantages are to be explored in the Indian cultural context which is the next task taken up in the study. The research evaluates the impact of major legislations on the positions of the women enduring domestic violence
in general legal regime. The study deals with the working and problems of the Act in the Indian cultural set up, the motivations and legal remedies guaranteed. A brief overview of U.S. and U.K. models are done to show the contrast and extent of the acknowledgment of the issue in developed countries. The major task undertaken through the study is to find out the loopholes existing in the present Indian legal scenario to combat the issue and suggest suitable recommendations in consonance with the specific Indian cultural values to overcome the same. The study ascertains the problem areas and challenges in the working of the Act.

The focus is limited to a doctrinal study on the topic because of the inherent limitations in attempting an empirical study. Moreover the non-reliable data is likely to come forth in, on the issue of domestic violence as it will be viewed as an invasion into familial privacy. Exhaustive case illustrations on domestic violence are not decipherable from the judgments that have been rendered by the courts in India. The law and practice of domestic violence in United States of America and United Kingdom is discussed briefly and the comparative analysis is made with giving only a cursory glance and not a comprehensive one, due to the existence of variety of laws on the same issue in different jurisdictions within the same countries. While discussing the issue of domestic violence, the law, its implementation and the outcome is the only ambit of the study. The multidimensional plight of the victims including physical and psychological impact of domestic violence on women and children is analyzed to the extent of concern of access to justice and not from a medico-legal point of view.

In short, keeping these limitations and theoretical framework in mind, this research study attempts to review the historical/philosophical trends of domestic violence in India, the existing legal remedies to combat the problem of domestic violence, the changed situation with the advent of the new Act on domestic violence and to enquire upon as to what extent the Act serves its purpose.