INTRODUCTION
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Statement of problem

The present study is undertaken to go into the depth of a problem of domestic violence. As we are well aware that domestic violence becomes a global problem. In my thesis the status of women through historical period has been discussed. In historical period especially in Vedic period, which is characterized by the absence of the purdah system, equal rights in selecting life partners, polygamy being rare, mainly confined to the ruling class. The dowry system was prevalent only in rich and royal families and only in the form of gifts. There was no discrimination between a boy and a girl. Girls were allowed to undergo Upanayana or thread ceremony.

Despite the overall social and cultural subordination of women, it is surprising to find that law givers recognized the right to property, particularly that which was known as Streedhan, women’s property. Manu defined Streedhan as ‘that which was given to her before the nuptial fire, in
bridal procession, in token of love and which she has received from brother, mother, father or husband”.

India has produced great heroic Muslim woman. Chand Bibi who lived during the latter half of the sixtieth century was decidedly the greatest. She was also a great scholar of Arabic and Persian languages who patronized many scholars of repute. Sahibji, wife of Amir Khan, was a woman of remarkable military power. These noble and great Muslim women will continue to inspire humanity. That Muslim women have contributed to the cultural heritage of India is not exaggeration. Faith in the Divine should inspire us all to work in a cooperative spirit for the cause of peace. Emperor Shah Jahan, composed a work called Samudra-Sangama the Confluence of Oceans). This book is intended to illustrate the agreements in fundamentals between Hinduism and Islam throughout the history of India. Respect for other faiths has been a persistent tendency.
The evil of dowry had become deep rooted, especially in Rajasthan, Polygamy and the system of Devadasi had already spread. The medieval period saw women being oppressed in the feudal social order and patriarchal families.

Thus, in short, during the British rule, awareness was created while education and organizing political participation increased women's mobility. The laws also were on their side as several legal enactments rectifying women's unequal position were passed.

Violence against women is a global problem. Historically men have dominated women and discriminated against them. Women’s lack of access to legal information, aid or protection, the lack of knowledge of law and inadequate efforts by public authorities to enforce existing laws in some cases increases violence against them.

The first world conference on women was held in Mexico City in 1975, which highlighted the themes of “equality, development”. The second
world conference on women convened in Copenhagen in 1980, added three sub themes: “education, employment and health”. In Nairobi, the third world conference was held to review and appraise the achievements of the United-Nations decade for women; equality, development and peace (1976-1985). The goal was set here for the adoption of “Forward looking strategies for the advancement of women to the year 2000”. In its thirty third sessions which was held at Vienna, the commission stressed that a drastic effort must be made to revive a flagging campaign for women’s advancement because there was sufficient evidence to indicate that advances towards women’s economic and political rights were slow or had actually stopped.

In its thirty seventh sessions, the commission urged the fourth world conference on women to consider women’s rights and concerns. This conference was held in the capital city of China, Beijing in September 1995. The Beijing conference, in a series of UN- sponsored global conferences on
women laid the foundation in the field of human rights of women, who constitute nearly half of the world population.

The platform for action, a 362 paragraph document was the blueprint for women’s advancement in countries around the world. It was the main document of the conference. A draft document was approved at the thirty ninth session of the UN Commission on the status of women for presentation in Beijing.

The Beijing conference further expanded the agenda for women’s empowerment. Issues once considered taboo ideas earlier viewed as too sensitive and actions ruled out as unacceptable were confronted head-on. The exercise led to the adoption of a platform for action, unanimously, by about 40 countries. The platform for action provides normative guidance for governments who bear the primary responsibility for implementing its strategic objectives.
The next important document on gender is the Vienna Declaration adopted by the World Conference on human rights in June 1993. The Vienna Declaration enjoins full and equal by women of all human rights. It prescribes this be a format for governments and for the United Nations. In participate Conference on Human Rights has stressed the importance of working towards elimination of violation against origin in public and private life, elimination of all forms of sexual harassment, exploitation and trafficking in women, elimination of gender bias in the administration of justice. The Beijing Declaration once against focused world attention on the prevailing discrimination against women in the world polity and formulated steps for its removal. Action to be taken by government, employers, NGOs and others are:

(a) Condemn violence against women and not use any custom, tradition or religious consideration to avoid their obligations to its elimination;
(b) Adopt measures to modify the social and cultural patterns of men and women;

(c) Provide well funded shelters and relief support for victims of violence;

(d) Assist female victims of violence due to prostitution and trafficking, consider ratification and enforcement on trafficking and slavery;

(e) Develop programmes and procedures to eliminate sexual harassment and other forms of violence in all educational institutions, workplaces and elsewhere;

(f) Promote research on violence against women, encourage the media to examine the gender stereotypes and take measures to eliminate them.

The constitution of independent India comes to be adopted by the Constituent Assembly on November 26, 1949. Being a contemporaneous document, the basic objectives underlying the
Declaration of Human Rights found eloquent expression in it. The fundamental rights in part III and the directive principles of state policy in part IV taken together, by and large, incorporate the human rights declared by the General Assembly of the United Nations. The right to equality covered by articles 1, 2, 4, 6 and 7 of the Declaration corresponds to articles 14, 15, 16, 17, 18 and 23 of the Indian constitution. The right to life and liberty mentioned in articles 3, 5, 9 and 10 of the Declaration are covered by articles 21 and 22 of the constitution. The right to privacy mentioned in article 12 of the Declaration and article 17 of the International Covenant on Civil and Political Rights 1966 and implicit in the right to life conferred by article 21 of the constitution as interpreted by the Supreme Court of India.

The preamble to the constitution of India resolved to secure to all its citizens justice- social, economic and political; liberty of thought, expression, belief, faith and worship, equality of status and opportunity; and to promote among
them fraternity assuring the dignity of an individual and the unity of the nation. To attain these objectives, the constitution guarantees certain fundamental rights and freedom, such as freedom of speech and expression, protection of life and personal liberty. Indian women are beneficiaries of these rights in the same manner as men. Articles 14, 15 and 16 ensure equality and prohibit discrimination on the basis, inter alia, of sex. In 15(3), 21, 39, 42 gives protection to women rights.

In our criminal law, there are few provisions available, which can be used to address the issue of domestic violence. The introduction of section 498-A in the IPC in 1983 was significant in bringing domestic violence out of the closet, but this section with its specificity to dowry ignores the other factors of violence. Other offences of assault, hurt, grievous hurt; dowry death, murder, rape, etc. are also often used against the perpetrators of violence. These criminal offences, however are not enough to deal with the complexities of domestic
violence because the violence inflicted is not by a stranger but by an intimate partner of family member of the victim, more importantly, a criminal remedy will only serve to punish the abuser and is not sufficient to address to the needs of the victim of violence who has to stay within that family.

The object of adding the chapter XXA in Indian Penal Code is to protect the wife where she is subject to cruelty but not to disrupt the family life where the husband and wife in spite of some previous misunderstanding intent to stay together, it should be the duty of Court to encourage such rapprochement and allow them to live as husband and wife rather than to disrupt the family prosperity by forcing the wife to pursue a criminal proceeding².

In Shoba Rani³ the Supreme Court held that dowry demand amounted to cruelty, Delhi High Court in inter Raj Malik⁴ held that person could be convicted both under section 4 of the Dowry Prohibition Act, 1961 and provisions under section
498-A of Indian Penal Code, only because it does not create any situation for double jeopardy.

The provision of section 498-A was enacted to meet the social challenge to save married women from being ill-treated by husband or his relatives.

In *Kundula Bala, Subrahmanayam v. State of Andhra Pradesh*, the Supreme Court showed its very concern about the women harassment and torture. It held that, there had been an alarming increase in cases relating to harassment, torture, abetted suicides and dowry deaths of young innocent brides. This growing cult of violence and exploitation of the young brides, though keep on sending shock waves to the civilized societies whenever it happens, continues unabated. There is a constant erosion of the basic human values of the tolerance and the spirit of “lives and let live”. Lack of education and economic dependence of women have encouraged greedy perpetrators of the crime. It is more disturbing and sad that, in most of such reported cases it is the woman who plays a pivotal role in this crime against the younger woman, as in
this case, with the husband either acting as a mute spectator or even at active participant in the crime, in utter disregard of his matrimonial obligations.

The problem of violation of human rights cannot be solved if the ground situation is such that some of the laws and procedures remain only on paper. There is not much justification for passing laws that are impossible to enforce. The police and the criminal justice system as a whole loose their credibility, if they cannot protect life and property.

It is an integral part of the criminal justice system and, therefore, its performance and effectiveness will very much depend on the performance of other components of the system. Reforms do not necessarily mean that the police be given more powers, but it does mean that we take a fresh look at the functioning of the criminal justice system and amend some of the laws and procedures to enable the police to perform its legitimate role more effectively. The trend of growing adversarial relationship between the police and other
components of the criminal justice system must be reversed at the earliest if the rule of law is to be established in the country.

As such under the civil law there is no remedy for domestic violence. A closer look at the available remedies reveals that the various personal laws provide remedies only divorce or separation. The only other civil remedy concerns providing maintenance to the woman seeking divorce. All these are representative of an irretrievable breakdown of family ties. In cases of domestic violence the women might not opt for divorce and may wish to continue with their marital relationship, in such circumstances the civil law is silent.

Domestic Violence Act 2005, provides that any conduct of a relative of the victim which subjects her to habitual assault or makes her life miserable, or injures or harms her or forces her to lead an "immoral life" would constitute domestic violence. Thus domestic violence includes physical, mental, economic and sexual violence. Sexual/economic in
the sense that the bill covers both these aspects and provides protection to a woman whose husband or his relatives may be forcing her into prostitution.

Both remedies available under the Domestic Violence Act must be available to the woman who may choose to lodge a criminal complaint or file and application for a protection order under the bill or she may decide to do both depending on her needs and the gravity of the situation. Such protection for victims of domestic violence, which is easy to obtain is of great importance. Thus the main features of the Act are:

1. It defines domestic violence.

2. Shared household this term is used instead of the traditional concept of “the matrimonial home” because the bill covers a group of persons beyond marital relationships. This also addresses the problem of violence even in cases where a marriage has not been registered where there is absence of proof of
valid marriage or where the woman is under
the belief that valid marriage exists.

3. Various orders can be passed like the
protection order, residence order, order
pertaining to monetary relief and temporary
custody of children. violation of a protection
order is an offence which is cognizable and
non-bailable.

4. Immediate relief-protection orders may be
granted within 72 hours by protection officers
and may operate for a period of two years
upon confirmation.

5. Rights awareness-mandatory obligation under
law to make information of legal rights
available to women.

6. Mandatory counseling for the accused and
complainant, either singly or jointly according
to the magistrate’s decision.

7. Appointment of protection officers.
The researcher has done field study and thrown light on the Role of police. I have mentioned the cases data of N.C.R.B how far these cases are tackled by the executive and judiciary been discussed.

During the recent past, Indian Courts have been overwhelmingly burdened with innumerable cases relating to conjugal violence including the extreme cases of dowry deaths or bride burnings. Therefore, keeping in view the alarming increase in the hands of her husband or the in-laws, in her matrimonial home, the Indian Courts have played positive roles in tackling the incidences of violence in the marital homes. The courts have adopted very stringent posture towards such cases, by pronouncing tough and firm Judgments against the perpetrators of such heinous crimes.

Objective of the study

The purpose of the study is to focus on International law, social legislations relating to women rights e.g. Dowry prohibition act 1961, Domestic violence act 2005, IPC, family law, Constitutional law etc. and CEDAW, Beijing Declaration, VAWA 2005 USA etc and makes an effort to find out the solution of following problem:

1. Are women facing domestic violence?

2. How far their rights are protected under different laws?

3. What is the role of police in tackling these crimes?

4. What is the role of judiciary in this direction?

The present work is undertaken to go into the depth of a problem of domestic violence. The present work concentrates on the status of women
from historical period and problem of domestic violence, causes and remedies of domestic problem.

The social causes of crimes against women include causes like inferior status of women due to social conditioning, patriarchal structure of society, a family atmosphere, lack of proper training, broken homes, overcrowding in one room, too much interference by the parents, too slack a discipline, lack of love of parents, imprisonment, drunkenness, immorality, cruelty, addiction to drugs, sickness and modern permissive atmosphere etc. at time excessive punishment may also embitter a child and lead him to antisocial activity.

Indian society is male dominated. Man occupies a superior status and the woman is merely his appendage. A woman is never an entity in her own right, she is "first the daughter, next the wife, and last the mother of a man". Men are consciously taught to be aggressive and tough while women are conditioned to be submissive and docile. The constitution and the protective laws assert justice and docile. The constitution and the
protective laws assert justice and equality to be the goals but the given concepts and shared understanding assign different kinds of resources, opportunities and expectations to the two genders, each of which is sought to be governed by its own distinct code of fairness and justice. This concept of equality and justice results in gross injustice to the women and is the cause of their exploitation and their low social status.

Any law against domestic violence must be taken into the account of reality that the moment woman complains of domestic violence she is thrown out of the house or she is forced to leave because of danger to her life. There is no provision in law to restrain the husband from such action. This is a major deterrent to her resistance. In principle, the woman should have equal right to the matrimonial home, regardless of whether she is a victim of domestic violence or not. And in cases of complainants this is all the more necessary.

Many new laws have been passed, old have been amended but Govt. or NGO cannot do
anything. If the society doesn't support them gender issues are emerging but these need to be given proper direction & understood in the right prospective, then only women can achieve better position at home at work & in society. Blind faith is not enough. But, there should be strict enforcement of law and legal awareness must be created among people.

To bring about a social change, a change of attitude is very important. Indian society will be receptive to ideas. They accommodate both modernity & tradition. Women may know what their rights are & fight back where they are discriminated or denied opportunities. To become independent, they must be economically independent, not few but all. Until the status in family is changed, until women strived to redefine their role & unless they revolt against the traditions, no amount of legislation changes their status.
Hypothesis

The hypothesis of the present field study is whether judicial decisions or directions of Court cannot be the substitute of the problem? So far, lots of efforts have been made to protect women right but it is painfully evident to (observe that more so many years had passed. Since the universal declaration of Human right, women rights have been adopted. It is still tangled in complex issue of culture lack of enforcement & accountability. So the question arises can any legislative reforms be effective ? If the will to implement it is lacking Liberalization of women is not an enactment & constitutional sanctions. It is not possible to bring about a change in the status of women through legislative enactment. There is a large gap between the law & social attitude & which act as a barrier in the enforcement of laws.
The hypothesis of the present field study is

1. Whether present laws are satisfactory or need to be revised?

2. Whether judicial decision or direction can be the substitute of problem?

3. Whether legislative reform be effective if the will to implement the law is lacking?

4. Whether women are legally aware to protect the rights?

The judicial decisions or directions can not be the substitute of the problem. But, there should strict of enforcement of law and legal awareness must be created among people.

The data collected has been analyzed with the help of computer. In the end the aforesaid hypothesis has been tested and findings are recorded.

Although international human rights order has transformed itself conceptually in response to
repeated challenges from women's rights movement, the conclusive test of its effectiveness lies in its enforceability in the municipal arena. The jurisprudence on municipal enforcement of international human rights law has evolved. Rather than making enforcement conditional strictly upon legislative enactment, there is a growing tendency to read international human rights law into the constitutional law.

Convention on Elimination of Discrimination Against Women specifically Article 1 states that "for the purpose of present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective their martial status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civic or any other field."
Whereas Article 2 of this Convention directly defines the violence against women. The Article states that “violence against women” shall be understood to encompass:

(i) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children with household, dowry related violence, martial rape, female genital; mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(ii) physical, sexual and psychological violence occurring within the general community including rape, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(iii) physical, sexual and psychological violence perpetuated or condoned by the State, wherever it occurs.
The 3 parts definition by the Convention focuses on all the aspects of domestic violence, including psychological aspects of violence. Perhaps before concluding the definition UN has gone through many debates to make the issue and concern all around complete.

The complete system of social institutions norms of behaviour and religion proscription of which have hardened like statutory laws obstruct proper implementation. Let us take few illustrations we all know that the divorce law but it is theoretical possible due to economic dependence on men & social stigma suffered by divorce. The scope of marriage though enlarged in law stands narrow in practice. It is difficult to across the social barriers. The succession law is unsuccessful; widow marriage is yet to be universally accepted. Dowry has been outlawed but in many cases it is a fundamental part of negotiation.

Recently, Domestic Violence Act, 2005 has passed to reform the position of women. But question remain how far it unit be enforced.
Under the Act the domestic violence includes actual abuse or threat to abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives are also covered under the Act. The act provides for the rights of women to secure housing. It also provides for the right of women to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is to be passed by the Magistrate.

Thus the Act seeks to address emergency situations and stop violence. It is designed to help the woman during the most intense phase of abuse. It will not only provide a support mechanism but will also be a tool for women to negotiate for their rights from a position of equality.

Indian women do not suffer from legal disparities but they suffer from practical disparities.
Research Methodology

The present study is confined to explore the scope of the judicial processes in the prevention of crime against women and the role of police is critically evaluated.

The present work is based on both doctrinal and non-doctrinal method which is descriptive, analytical and case study. Along with a non-doctrinaire method has also been used for the field survey to corroborate the findings of the present research work.

Empirical research deals with case laws, field study close ended questionnaires have been distributed to the various sections of the people and their opinion relating to domestic violence have been evaluated. The city of Meerut, Bulandshahr, Baghpat, Noida, which are closely situated near Aligarh has been selected for the field's study of the problem. National Data of Crime against women has been also taken. Data of National Crime Record
Bureau has been given, which enables me to do comparative study.
Review of Literature

of the subject and works of scholar as well as the judgment of the court reveals the various dimensions of the problem.

Chapter-I it is customary, which deals with the general introduction, justification of undertaking of the present research and also covered the plan of study chapterisation, hypothesis, object of study and research methodology to be adopted.

Chapter-II contains the historical background. It starts with the status of women, their position during Vedic period, Post-Vedic period, the position of women in Hindu, Muslim and Christian communities. How they had enjoyed their various rights and how they were treated by men and what were their status in their respective Laws and has pointed out the difference between the religious norms and social values in contemporary society.

Chapter-III In this chapter, the rights of women under various laws have been discussed starting from the UN Charters, various Conventions, Vienna Accord 1994 beyond declarations and the platform
for Act on 1995. The United Committee on Convention on Elimination of All Forms of Discrimination against in its general recommendation has been discussed in details.

In constitutional law, the right to social and economic justice envisaged in the preamble art 14, 15, 16, 21, and 39 are envisaged to the life of the poor thoroughly discussed through case law. Relevant provisions of the constitution of India has been discussed. Various provisions of Criminal law like 498-A, 304-B has been discussed. Then provision relating to the women in personal law have been discussed, then Dowry Prohibition Act 1961 and related cases were discussed and then provisions of the Domestic Violence Act 2005 has been discussed.

**Chapter-IV** deals with the role of police, how far they can able to tackle the problem what are the obstacles, which prevent them to perform their duties and the negative points, which they ought to improve to prevent such a heinous crime of domestic violence.
Chapter-V deals with the role of judiciary in protecting the rights of women and with the help of cases, latest laws relating to the protection of women rights.


Chapter-VII deals with conclusions and suggestions i.e. various recommendations to combat the social evil of domestic violence.
References

1. (1996) 8 SCC 525

2. (1998) 15 Irussa CR 449


5. (1993) 2 SCC 684