1.1. INTRODUCTION:

"Domestic Violence is not simply a legal problem, which can be eradicated by appropriate legal measures alone, it is very much a social and psychological problem and can be tackled adequately by bringing about fundamental changes in the social system and in the attitudes of people towards women and children."\(^1\)

From time immemorial, women are always deprived of the basic human rights and privileges which men enjoy and have a vulnerable position in Indian society. As a girl, a wife and a mother a woman is always dependant on the male member and always considered inferior to men. But women are part of the development of the country. Throughout the history saints, sages and statesmen have agreed that the greatness and progress of a nation substantially depends upon the status of women and her dignity and respect.\(^2\) Not only that, a family is not happy and strong if the women are not happy. They are the queens of household and without them the household can not be properly managed and adorned.

In India, ‘Family’ is the basic Unit of the society. In case of “nuclear family” it consist of man, woman and their children and in case of “Joint family” it consist of man, his parents and other relatives, his wife and children. A woman after marriage enters her matrimonial home with high aspirations and expectations. For a woman the matrimonial

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\(^1\) "Domestic Violence" by Mamta Saigal Domestic Violence And Law—Lawyer collective Women’s Rights Initiative, Butterworths India, page-178.

\(^2\) Law relating to Protection of Human Rights by Dr. Awasti and Kataria, Asia Law House, Hyderabad.
home is a place in which her fate and destiny lies and the binding factor between the couple is the mutual faith, love and sincerity. But, now this unit the family, is no more a safe and comfortable place for a woman due to domestic violence. As a result of different domestic violences, the matrimonial home of a married woman which ought to have been happy and heavenly home with full of joy, love and affection is turned into a hell and the woman looses her self-confidence, dignity and becomes crippled mentally and economically. She lacks freedom in socio-economic life and is confined within the four walls of her matrimonial home. Female-foeticide, female-infanticide, bride beating and cruelty, dowry death, marital rape, Sati Pratha, bride burning etc. are some major types of domestic violence which are prevailing in India.

1.2 HISTORICAL BACKGROUND OF WOMEN IN THEIR MATRIMONIAL HOME

History tells us about the position of women in their matrimonial homes from Vedic period to modern period.

i) **IN VEDIC PERIOD:**

In Vedic Period there was no instances of Domestic Violence in the family. Vedic-era was the golden era, so far as the personal freedom of women and their equality of status in the family and society are concerned. During this period women like men, participated in all the social commitments and took active part in each and every spheres of human life. They enjoyed equality with men in learning the Vedas in Gurukuls. In this period there was no custom of purdah, girls were free to select their grooms. This custom was known as “Swayamvara”. In Rig Veda, the wife had been blessed to live as a queen in the house of her husband. In those periods monogamy was practised by the general people and the custom of polygamy was very rare which was confined in ruling classes only. The system of dowry was also prevalent in royal and rich families through moveable
gifts but it was not in the shape of demand. Custom of “Sati” did not exist in the society
and widows were allowed to marry again or could undertake “Niyoga” to get a son. But
still, in some places widows were looked down as inauspicious and they were not
allowed to take part in ceremonies or festivals. In the Mahabharata the wife has been
called the root of Dharma, Prosperity and enjoyment. No man was allowed to perform
religious duties without his wife. Therefore men and women together used to perform
religious duties, take part in enjoyment and carrying out other festivities. Women could
move freely out of their matrimonial houses and enjoy freedom of movement by attending
sabhas, assemblies of learned persons, fairs and festivals. During that period, marriage
was regarded as indissoluble holy Union and divorce was unknown except a few
examples of customary divorce in lower castes. Woman had an absolute ownership over
her property which was regarded as her “Stridhan”. Thus a woman was regarded as equal
partner, friend and equal sharer in joys and sufferings of her husband’s life in Vedic era.
She was considered as human being and enjoyed a status and prestige in the society.

ii) IN POST-VEDIC PERIOD :

In the post-Vedic period, between 1500 BC to 500 AD, the status and honourable
position of a woman was gradually deteriorated and various restrictions were put on the
woman’s rights and privileges by “Manu”. Woman was regarded as subservient to man
and confined to household works and child bearing only. The society became
polygamous, polyandry disappeared, except in some rare cases like polyandry, practised
by Draupadi in the Mahabharata.

According to Manu Smriti—“there is a vital structural difference between a man
and woman; and a woman can not possess an independent status.”

Further, according to Manu—

“A woman is not entitled to independence, her father protects her in her
maidenhood, her husband in her youth, and her son in her old age.”

3
Not only that, Manu suggested the ways and means to keep the wives under subjugation and men had adopted those ways to cruelly exploit a woman during this period. Therefore as per Manu—"Marriage establishes the supremacy of the husband over the life of a woman."

Another Smritikar “Yajnavalkya” added that “women should follow the words of their husbands, it is their highest duty”. The Ramayana and Mahabharata are full of incidents of wife’s devotion to her husband.

In that time widow remarriage was also prohibited by the” Manu Code”. It is to be noted that in this period the seeds of domestic violence were sown by Manu Smriti and other Dharmashastras.

There was reduction of age of Marriage of girls and their education was neglected and later on girls were totally denied access to education. However, girls in the ruling class did receive some training in military, administration and fine arts. But these were exceptions. The marriageable age of girls was lowered to nine or ten years. The wife’s status in matrimonial home was declining. Child wives with no education became the order of the day and they could not get any respect from their husbands and were treated as chattels. Manu also stated that—“Even if the husband is immoral, a debauch and lacks good qualities, the wife must still worship him as if he is god to her. A woman need not perform any Yajna or ceremony or undertake fast for her salvation. She will attain better life by service to her husband.”

Many Smritikars imposed many obligations on a woman and restrained her free life. Caste system was prevalent in the society. People were divided into four barnas ie 1) Brahman 2) Kshatriya 3) Vaishya 4) Shudra.

As regards property right, a wife had no separate right in the property because her identity is merged in the personality of her husband. On husband’s death she acquired only limited share of the husband’s property. The woman could exercise control over her
stridhan only. After marriage, she had no right upon her paternal property.

Thus in Post Vedic period, women lost their individuality and high status in the society. Her existence and happiness was dependant on that of her husband.

iii) WOMEN IN MEDIEVAL PERIOD:

In this period the position of woman was further degraded with the invasion of India by Alexander and the Huns. The education and training of women were totally neglected. For reasons of security of women, their movement outside the house was restricted. They were treated as chattels by their husbands and in-laws. Social evils like Sati Pratha, Child marriage, female infanticide were rampant. The evil of dowry had become deep rooted in many parts of India. Polygamy and system of Devadasi were widespread. In Medieval period women were oppressed by the feudal social order and patriarchal families.

Further Muslim invasion of India brought complete subordination of women. In Muslim period condition of women became worse as the Muslim conquerors favoured “Purdah system”. Its influence was felt in the society also. Women were compelled to be satisfied with household affairs only.

The women lost their right to education and they could worship only through priests. They were not given opportunity to participate in the activities of men. There were some educated and talented women in the society but they were exceptions.

The common women were kept in the darkness of ignorance. That was a “darkage” for every woman. Child marriage became a religious obligation and child widows were inevitable. The widowhood was most pathetic and unpleasant. Many inhuman practices including domestic violence prevailed in the society in the name of social custom and religion. Widows were not allowed to get married for a second time, they had a very wretched life. Women had no power to protest against those social evils. They suffered all those cruelties silently. They thought it was their destiny to suffer from
all those present customs. They had no right upon the paternal property after marriage. The Indian women were subjected to all sorts of humiliation and were deprived of whatever was due to them.

iv) IN BRITISH PERIOD:

In that time, the wife's position in the household was in sorry state. Domestic violence was found in most of the family in the name of different customs. Early marriage, enforced widowhood, female infanticide, Satipratha, Devdasi system, Pardha system, Dowry system, Caste system, Polygamy etc. were prevalent in the society. Inter Caste marriages and widow remarriages were strictly prohibited and Hindu society was divided into four barnas (1) Brahman, (2) Kaiyastha, (3) Baishya, (4) Sudra. But during the British regime due to education and western impact on socio-cultural life of India, the society began to change for the better. The attitude, behaviour and life style of the people changed drastically. Some prominent persons of that era like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, M.G. Ranade, Mahatma Gandhi, Lokmanya Tilak, Rishi Aurobindo, Dada Bhai Naoroji, Swami Vivekananda etc who had received English education began to think about the injustice on the women. The issues which attracted the attention of the eighteenth-nineteenth century social reformers were Sati Pratha, ill-treatment of widows, the ban on widow remarriage, polygamy, child marriage, denial of property right, temple prostitution, custom of purdah and education of women etc.

The reformers thought that women should be educated equally like men and every opportunity should be given to develop their womanhood. They can take proper share in the various activities which were the monopoly of men. So women were given English education. Christian Missionaries in Bombay started the first school for girls in 1824 and Ishwar Chandra Vidyasagar started at Calcutta another school for girls in 1849. As our society was very conservative, the progress was very slow at the beginning. During this period there was Nationalist or freedom movements which affected the position of
women. The nationalist movement not only drew a large number of women to political activity but also generated strength and confidence among women which helped them to organise and fight for their cause. The formation of the All India women’s conference in 1927 was a crucial event in women’s march towards equality. Many Laws were enacted which tried to eradicate certain social evils. The cruel practice of “Satidaha” was abolished by an ordinance on December 4, 1829 by Lord William Bentink, the then Governor General of India and he had the unflinching support of the enlightened Indian like Raja Rammohan Roy, one of the most worthy sons that India has ever produced. Sati Pratha abolition Act 1829 was enacted to curb this brutal practice.

Widow remarriage was also introduced by another great social reformer Pandit Ishwar Chandra Vidyasagar. Hindu Widow Remarriage Act was enacted. Child marriage was stopped by Child Marriage Restraint Act 1929.

Thus in short, during the British rule, an awareness was created for the removal of social malaises while education and political participation increased women’s mobility. In that period several legal enactments rectifying women’s unequal position were passed.

v) THE POST INDEPENDENT PERIOD:

(a) The most important event after Independence of India has been the drafting of the Constitution of this Country. The Constitution of India embodied the principles of equality liberty and social justice. The framers of the Constitutions were conscious of the discrimination and unequal treatment relating to the fairer sex from time immemorial. Therefore, they included certain general as well as specific provisions in Constitution under Part III as fundamental rights and part IV as directive Principles of State Policy for the uplift of the status of Women and to provide opportunities for the exercise of Women’s human rights and claims. The articles under part III of the Constitution of India relating to Fundamental rights which try to uplift the status of women are Article 14-17 and Art. 19-25 etc. and
the articles under Part IV relating to Directive Principles of State Policy which are explicitly intended to improve the status of women are Art 39, 39A, 42 etc. Article 51A imposes certain fundamental duties on every citizen of India in which Article 51A(e) is related to women.

(b) In order to achieve the fundamental principles of equality of Status and position of Hindu Women in family and social life as envisaged in the Constitution, Pt. Jawaharlal Nehru proposed the “Hindu Code Bill”. Thus, four enactment viz the Hindu Marriage Act 1955, The Hindu Succession Act 1956, the Hindu Adoption and Maintenance Act, 1956 and Hindu Minority and Guardianship Act, 1956 were passed by the parliament and assented by Dr. Rajendra Prasad, the then President of India. These enactments brought changes in the status and position of Hindu Women. As for example– Polygamy, was legally prohibited. The Hindu Marriage Act enforced strict monogamy. Bigamy was made an offence for Hindus and second marriage was void and punishable under this Act. The child marriage was prohibited by this Act. It was prescribed by the Act that at the time of the marriage the bridegroom must complete the age of twentyone years and bride the age of 18 years, otherwise the marriage will be void ab initio.

(c) The Indian Penal Code 1973 contains numerous provisions to check the crime against women in their matrimonial homes, as for example– punishment for harassment or cruelty by husband and in-laws (Sec. 498A), dowry deaths (Sec. 304B), abetment to commit suicide (Sec. 306), Punishment for Bigamy (Section 494 and 495 IPC etc.

(d) Section 113 A and 113 B were incorporated in the Indian Evidence Act 1872 which provides for the presumption of dowry death when a married woman dies within seven years of her marriage under suspicious circumstances on account of cruelty or harassment by the husband and in-laws in connection with demand for
dowry. The onus of proof was also shifted to the accused in such cases to show that the death was due to natural reasons.

(e) Several other laws was introduced for protecting women from violence in their matrimonial homes. As for example—Dowry Prohibition Act 1961, Medical Termination of Pregnancy Act 1971, the Commission of Sati (Prevention) Act 1987, the Pre Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994 etc.

But unfortunately it has been noticed that though constitutionally as well as legally women in India enjoy a unique status of equality with men but in reality they suffer from many disabilities on the ground of sex.

Today women are receiving education in large number. The purdah system no longer exists among the majority of women. Women are equally working with men in every field. Among the women there are now ministers, Governors, IAS officers, High Court and Supreme Court judges, magistrates, lawyers, doctors, professors, engineers, Scientists, eminent social workers etc. Many women are now holding jobs in Government and non-government offices, schools and colleges and they are also maintaining their families.

But it is sad to remark that the female education has not yet spread among the majority of poor women living in urban and rural areas.

Now it is nearly 60 years since the Independence of our country but women are still treated as commodity and different kinds of domestic violences i.e. Sati pratha, female-infanticide, female-foeticide, forced abortion, forced prostitution, marital rape, dowry death, bride-burning, bride-beating, cruelty, bigamy, desertion of innocent wife etc. are still very prevalent in our country. These incidents of domestic violences have been regularly reported and highlighted by the press, media, NCW, NGOs etc. Despite of plethora of progressive and protective legislations favouring women, we failed in our aims
to uplift the social status of women. Today, girl children are still unwanted in most of the families. They are treated as burden for the family. Today Satipratha is rampant in Rajasthan, Uttarpradesh etc. Recently on 19th May, 2006, a 38 years old woman Vidyawati committed Sati after her husband Lakhanpal Lodhi, aged 42 was found dead at Rarhi Bujrag village, 35 km from Fatehpur town, Uttarpradesh. It was alleged that she threw herself on her husband’s pyre before a crowd of 200 villagers who did nothing to stop her. The villagers stigmatised Vidyawati as an adulteress in her life and believed that her alleged lover, Rohit, murdered Lakhanpal and she might have played a part in it. The Fatehpur district magistrate Giridhari Lal registered a case against all 200 villagers for abetment to suicide.3

Not only that, 66% of the Muslim women in India are still illiterate due to poverty, purdah system, and other numerous socio-economic problems. In Muslim Law unlike the Hindu Law, a muslim woman enters into contract of marriage with a male by free consent of both the parties to the marriage. But in practice in married life, a muslim woman has no free status equal to man/husband. Though they are two partners but not equal partners. The husband always plays a dominant role and the wife is subordinate to him. A male muslim is entitled to have four wives simultaneously at a time and even a fifth known as a wife by Muta Marriage. But a muslim wife cannot have two or more husbands at a time. The Muslim Law confers on the husband almost absolute power of divorcing his wife by triple talak any time as he desires. Under Muslim Law the testimony of two women witnesses is equal to the testimony of one male muslim witness. In succession also she is discriminated. Child marriage is rampant among muslim women. Most of the muslims in rural areas of our country because of poverty and illiteracy are unable to educate their female children in higher and professional as well as job oriented courses. Therefore in professionalism and competition for job they remain backward. Domestic violence is very

3) “Sati or Adulteress or both : Jury is out.” The Telegraph 20 May, 2006.
common among muslim women also but due to early marriage and lack of education they generally remain silent.

Therefore, today with increasing stress and strains in daily life different types of domestic violences against women have been increasing and cut across all the cultural, socio-economic, educational ethnic and religious barriers in India.

Recently almost every six hours somewhere in India, a young married woman is burnt alive, beaten to death or forced to commit suicide. Not only that, a recent study reports that – atleast 45% of Indian women are slapped, kicked or beaten by their husbands and 75% of battered women contemplate suicide. There is an annual increase of 9.2% cases of domestic violence, while a large number of cases go unreported.4

In this context it is mentioned that before the year 2005 there is no specific civil law on domestic violence in India. Women who are victims of domestic violence have been compelled to use matrimonial remedies like judicial separation, divorce etc. to obtain relief.

But since 1990 in India, there was a general consensus that a new civil law dealing with the issue of domestic violence was needed as the existing criminal laws had proven to be inadequate to meet the needs of the victim women of domestic violences.

By this time, most women’s groups including National Commission for Women, all the other State Commissions for Women, different NGOs working for women in different parts of India etc. were united towards the need for a separate law on domestic violence and it was also agreed by the government of India, that though there are number of legislations dealing with domestic violence cases but it would be preferable to have a single legislation dealing with all aspects of the problem. right from issuing prohibitory and injunction orders to grant maintenance and compensation to the victim.

4) “Trash it out again” – The Hindustan Times
However, the new legislation would only be in addition to the existing provisions of law, and hence, any remedy not covered by the new law but under other criminal and civil laws would still be available to the victim of domestic violence.

Therefore, at last, in order to provide a remedy in civil law for the protection of women from being victims of domestic violence and to prevent the occurrence of domestic violence in the society, “The Protection of Women from Domestic Violence Bill, 2005” was drafted by the Government of India and introduced in the parliament. This Bill has been passed by the Lok Sabha on 24th August, 2005 and by the Rajya Sabha on 29 August 2005 and it received the assent of the President of India on 13th September 2005 and came on the Statute Book as “THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 (43 of 2005)”

Now, the question may arise, what is the definition of domestic violence?

1.3 DEFINITION OF DOMESTIC VIOLENCE :-

(i) Generally, domestic violence is a violence that occurs within the family between the persons who are related through intimacy blood or law and the violence is perpetrated by a man (ie. husband, former husband, boyfriend, etc) with the active help of his parents and relatives against woman (ie wife, former wife, girl friend etc). Domestic violence differs with households, individuals and situations. Domestic violence could result in anything from minor scares to death.

(ii) The Lawyers’ collective women’s Right Initiative, a Delhi based NGO working for women defines domestic violence as— “any act, ommission or conduct which is of such a nature as to harm or injure or has the potential of harming or injuring the health, safety or well being of the person aggrieved
or any child in the domestic relationship and include physical abuse, sexual abuse, verbal and mental abuse and economic abuse.”

(iii) According to Section 3 of the Protection of Women from Domestic violence Act, 2005. Domestic violence means—any act of omission or commission or conduct of the respondent which constitute—

a) harm or injuries 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, injuries 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, person related to her by any conduct mentioned in clause (a) or clause (b); or

d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

For the purpose of this aforesaid section the term “Respondent” means according to Section 2(q) of the Protection of Women from Domestic Violence Act 2005—any adult male person who is or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act.

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may file a complaint against the husband, a relative of the husband or the male partner. As for example—for the purpose of this research study husband and his relatives and the victim wife can file a complaint against her husband, father-in-law, brother-in-law etc.

According to Section 2(a) of this act the term “Aggrieved Person” means—any woman who is or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

As for example— for the purpose of this research study, newly wedded brides or any married woman.

According to Section 2(f) of this act the term “domestic relationship” means— a relationship between two persons who live or have at any point of time, lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.

Today, Domestic violence is also an universal phenomenon. Millions of women in all the countries of the world are suffering from domestic violence. For these women, home is not a safe or comfortable place but a place of intimidation fear and violence. Around the world at least one in every three women has been beaten by their intimate partners and experienced sexual, physical, emotional or other abuse in her lifetime due to domestic violences.

So, the Universally recognised concept of domestic violence is stated below :-

(iv) Domestic violence is a range of abusive behaviours (physical, mental, sexual, economic and emotional abuse) perpetrated by one partner upon the other to gain and maintain control. It happens in the family, home and sometimes the children and other members of the family are involved too.

In other words—Domestic Violence is occurred when one partner in a couple (whether married or just living together) behave aggressively, violently or destructively towards the other. In the vast majority of cases, the violence is perpetrated by a man towards a woman. Domestic violence is not a genetic problem or an illness. It is a behaviour that is learned by repeated past observation which is then brought into force in the family upon a woman and her children.
(v) The United States of America Law on Family violence and Prevention of Services Act, defines family violence as — “any act or threatened act of violence, including any fearful detention of an individual which (a) results or threatens to result in physical injury, and (b) is committed by a person against another individual to whom such person is related by blood or marriage or otherwise legally related or with whom such person is lawfully residing.6

(vi) According to ‘Stop violence against women’ organisation of Minnesota, U.S.A— Domestic Violence is a pattern of abusive and threatening behaviours that may include physical, emotional, economic and sexual violence as well as intimidation, isolation and coercion. The purpose of domestic violence is to establish and exert one’s power and control over another person. Men most often use it against their intimate partners, such as current or former spouses, girl friend or dating partners.7

(vii) The UN Frame Work for model legislation on domestic violence states — “All acts of gender - based physical, psychological and economic abuse by a family member against a woman in the family, ranging from simple assaults to aggravated physical battery, kidnapping, threats, intimidation, coercion, stalking, humiliating verbal use, forcible or unlawful entry, arson, destruction of property, sexual violence, marital rape, dowry or related violence, female genital mutilation, violence related to exploitation through prostitution, violence against household workers and attempts of commit such acts shall be termed “domestic violence”’.8

6) U.S. Federal Law — “Family violence Prevention of Service Act”.
1.4 FORMS OF DOMESTIC VIOLENCE:

1. In India:

   i) Cruelty by the husband or his relatives to the wife.
   ii) Dowry death.
   iii) Abets to the commission of suicide.
   iv) Taking dowry or even asking for dowry and harassing or humiliating the bride for dowry.
   v) Causing miscarriage, female infanticide, female-fœeticide or forced abortion.
   vi) Causing hurt and grievous hurt.
   vii) Marital rape and sexual harassment by husband.
   viii) Wrongful restraint or confinement of the spouse within her matrimonial home.
   ix) Culpable homicide and murder and attempt to murder.
   x) Deceitful marriage and bigamy.
   xi) Husband refuses to return belongings and stridhan or misappropriation of the spouse’s property so that she is economically crippled into subjugation.
   xii) Not allowing the bride to visit her parents or to talk with the neighbours.
   xiii) The Woman’s viewpoint is discounted by the family who support the husband in any altercation.
   xiv) Denial of conjugal rights and denial of proper food or share of property, care etc.
   xv) Wife being dumped with an excessive work load and denied privacy.
   xvi) Driving her out of her matrimonial home,
   xvii) Deserting the wife and living with another woman.
   xviii) Forcing wife to leave her job while denying her food and basic necessities.
   xix) Gratification of Sati or forced Sati.
   xx) The man abusing his children for torturing his wife mentally etc. are common forms of domestic violences.
2. According to the recent “The Protection of Women from Domestic Violence Act, 2005”, Domestic Violence are four types –

i) Physical abuse   ii) Sexual abuse   iii) Verbal and emotional abuse

iv) Economic abuse

According to Sec 3 Explanation I of this Act—

i) ‘Physical abuse’ means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of a woman and includes assault, criminal intimidation and criminal force.

ii) ‘Sexual abuse’ includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the woman.

iii) “verbal and emotional abuse” includes—

(a) insults, ridicule, humiliation specially with regard to not having a child or a male child, and

(b) repeated insult, ridicule humiliation and threats to cause physical pain to any person in whom the woman is interested.

iv) “Economic abuse” includes—

(a) deprivation of all or any economic or financial resources to which the woman is entitled under any law or custom whether payable under an order of a court or otherwise or which the women requires out of necessity including but not limited to household necessities for the woman and her children, if any, shridhan, property, jointly or separately owned by the woman, payment of rental to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the woman/wife has an interest or is entitled to use by virtue of the
domestic relationship or which may be reasonably required by the woman/wife and her children or her shridhan or any other property jointly or separately held by the wife/woman, and

(c) Prohibition or restriction to continued access to resources or facilities which the wife/woman is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

3. **Today, in many Western Countries like U.S.A, UK. etc “stalking” is a very popular form of domestic violence.**

**Stalking** is a pattern of harassing or threatening behaviours. These behaviours may include— (i) following a person, (ii) appearing at a person’s home or place of employment, (iii) making phone calls, (iv) leaving written messages or objects gifts (v) Sending emails, faxes or letters (vi) Vandalizing a person’s property.

Stalking often leads to the serious injury or even death of the victim. Most stalkers are male and majority of those who are stalked are women. The Stalker and victim are often current or former intimate partners. The women are frequently stalked by their former husbands after they leave or attempt to leave their abuser.

Since the early 1990s, legislation criminalizing “stalking” behaviors has been passed by different foreign countries ie. U.K. U.S.A etc in the world. These Anti-stalking legislations recognizes these behaviors as wrong and declared that stalking is a form of domestic violence.

4. According to the domestic Abuse Intervention Project in Duluth, Minnesota, U.S.A. the various behaviors that are generally used by the batterers to gain power and control over the victim women/wives are demonstrated by a diagram called the “Power
and Control Wheel.”9

Using Intimidation by husband means –

i) Making the Woman afraid by using looks, actions or gestures.

ii) Smashing things, iii) Destroying property, iv) Displaying weapon etc.

Using Emotional abuse by husband means –

i) Putting the woman down in front of many relatives, friends etc. in a gathering.

ii) Making the woman feeling bad about herself.

iii) making the woman feeling guilty.

iv) Humiliating the woman.

v) Making the woman think that she is crazy etc.

9) Domestic Violence Information and Referral Hand book, Adapted from the hand book “From This Day forward” Published by Santa Clare County Probation Department.

Website www.growing.com
Using **Isolation by husband** means –

i) Controlling what she does, whom she sees and talks to, what she reads and where she goes.

ii) Limiting her outside involvement.

iii) Using jealousy to justify action etc.

**Denying, Blaming, Minimizing means –**

i) Shifting the responsibility for abusive behaviour to other people.

ii) Saying the abuse didn’t happen.

iii) Saying the woman caused the abuse etc.

Using **Children** means –

i) Making the woman feeling guilty about the children.

ii) Using the children to relay messages.

iii) Using visit to harass the woman.

iv) Threatening to take the children away etc.

Using **Male Privilege** means –

i) Making all the big decisions.

ii) Acting like “Master of the Castle”

iii) Being the one to define men’s and women’s roles.

iv) Treating the woman like a servant etc.

Using **Economic Abuse** means –

i) Preventing the woman from getting or keeping a job.

ii) Making the woman ask for money.

iii) Depriving the Woman to get an allowance.

iv) Taking the woman’s money.
v) Not letting the woman to know about or to have access to family income.

Using Coercion and Threat means –

i) Making and / or carrying out threat to do something to hurt the woman.

ii) Threatening to “out” the woman from her matrimonial home.

iii) Threatening to leave the woman, provoking the woman to commit suicide.

iv) Making the woman to do illegal things etc.

1.5 CAUSES OF DOMESTIC VIOLENCE IN INDIA:

1. Demand for money, jewelry, flat, car, motor cycle, scooter, computer, television, refrigerator, set of beautiful furnitures, electronic gadgets and various other expensive items of property etc. as dowry by husband and, in-laws are often the cause of domestic violence like dowry death, bride burning, cruelty and wife beating etc. in India. Often these demands may continue for years and the victim women do not tolerate these tortures for insufficient dowry and due to frustration and depression commit suicide.

2. Sometimes the behaviour of the husband is extremely suspicious, dominant, irrational, immoral, very much emotionally disturbed, unjust, possessive, jealous etc. which makes the risk of wife battering very high.

These are mainly personal and psychological causes of domestic violence. The violent behaviour of the husbands are mostly due to their previous life experiences like–

i) The parents of the husbands quarrelled frequently and their arguments were of violent nature.

ii) The husband who witnesses battering in his childhood learns a powerful message about the rights of husbands to demand conformity and obedience from their wives and to use violence to achieve it.

iii) Husband gets severe beating from his parents for trivial reasons.
iv) Their movements were restricted and they received no love or care from their parents.

3. In case of working women, the status inferiority theory maintains that the rate of wife beating is greater when the wife has more prestigious job than her husband. In such circumstance, husband generally feels jealous and uses physical, mental, sexual, emotional, verbal abuses to dominate his wife which leads to domestic violence.

4. In case of housewives, marital maladjustment are sometimes the main cause of domestic violence like cruelty, wifebeating etc. But the Indian women generally consider marriage as a sacrament and do not like any outside interference. They are dependent on their husbands for economic, emotional and social support. They generally do not approve divorce due to its social consequences and due to domestic violence, they lack self confidence and get satisfaction from self inflicted pain (masochism). They are subjected to beatings by their husbands in silence and they vainly hope that their husbands would repent after beating.

5. Sometimes extra-marital affair of the husband, bigamy etc. are the cause of domestic violence upon a woman.

6. In Indian families domestic violence is not only inflicted by the husband alone but the entire husband's family participates in it. Especially the "Mother-in-Law" acting as dominating figure who inflicts violence or harasses the daughter-in-law due to over possessiveness and jealousy. This also leads to most popular myth that "women are women's enemies". They due to jealousy always insist their sons (ie. husband of the bride) to dominate and control their wives through physical and verbal abuse etc. The most common reason is rivalry for the affection of the son.

7. Sometimes inferior status of women due to social condition, poverty, patriarchal structure of society, lack of education too much interference by the parents of the husbands, lack of discipline, drunkenness, addiction to drugs, impotency etc leads to domestic violence upon women by their husbands and in-laws.
VARIous FACTORS CAUSING DOMESTIC VIOLENCE

Greed for more dowry and insufficiency in dowry demand

Traditional Social norms of gender inequality

husbands’ conservative attitude towards wives

Dependence of women

Physical incapabilities

Inferior economic and social status of the husband

Extra matial affair and bigamy

Traumatic experience of violence in offender’s childhood

Causes of domestic violence against Women

Callous attitude and haphazard style of collecting relevant data by the Police in case of domestic violence.

Loopholes in law and lack of effective legal provisions

8. Legal Causes ~

The laws enacted for protecting the women from Domestic Violence suffer from various shortcomings and lack of implementation of those laws are often cause of Domestic violence. Generally due to lack of education and legal awareness, women are unable to raise their voice against this violence and fail to get legal remedies against Domestic Violence.

The attitude of the Judiciary in interpreting these laws is conservative, rigid and traditional. Therefore the accused husband and in-laws grow more daring because they are not reprimanded by law. They think that they indulge in crime with impunity.

9. Often in domestic violence like cruelty, bride beating cases police are very reluctant to register the cases and advise the victims to patch up with their spouses for the purpose of saving their marriages.
Sometimes the investigation done by the police is so casual, negligent and defective that allows the accused to get away with their offence easily. As a result of that the cases of domestic violence are increasing day by day in India.

1.6 THEORETICAL PERSPECTIVE –

Recently Domestic Violence against Women is widespread and frequent all over the globe. There are many theories regarding Domestic Violence. These theories try or explain why does family violence occur?

1. Conflict Theory –

According to conflict theorists, conflict occurs in all human relationships including the family. Commonly family is a centre of competing interests that results in conflicts. Domestic violence is one means of advancing one’s interests when other methods fail. When individuals can not influence people around them, they may use violence upon their wives. Thus a husband who receives little prestige or income from his job, may use violence to dominate his family.10

Similarly if men are married to women with higher educational and occupational status than their own, are more likely to use force and violence on their wives unlike the men with higher occupation and status. Thus here use of domestic violence is a resource for domination.11

Another theory propounded by Straus, Gelles, Steinmetz is that low income, employment, and having more than two children etc were all related to domestic violence between spouses. The frequency of domestic violence increased with the increase of stress and strain between the spouses i.e. husband and wife and their children.12

10) Caroline Hodges Persell “Understanding Society—an Introduction to Sociology,” P- 354-356
11) Law Relating to Domestic violence by Dr. R. Revathi, P- 30-33
12) Ibid, Note 11
The other factor associated with domestic violence was the concentration of family decision making power in the hand of the male person i.e upon the husband. There was less violence in families where democratic way of decision making is operated.

2. **Conservative Theory**:

According to conservative theorists, family is a social institution and major cause of domestic violence is the gradual loss of patriarchy. The traditional division of labour allows men to relax at home after a hard day's work. They believe patriarchal families benefit women by giving them protection and support. They also assume women are biologically and psychologically more suited for rearing children.¹³

3. **Marxian and Radical Feminists Theory**–

According to Marxian and radical feminists—subjugation of women was the major problem and family was a major source of such domination. They differ among themselves with respect to, how family become a place of domination?

According to some of them the property and economic relation between the spouses are the main causes. Others stated that biological factor and male dominance etc are the root causes.¹⁴

According to Fredrick Engels, women lost status with the growth of private property. As economic surpluses were produced outside the home, household labour became less important than outside production. Men thus assumed domination over women. Women became little more than servants. They were restricted to household jobs and child rearing activities. The male domination was based on economic power and the assumption was that abolition of private property would end the oppression of women.

Another group of feminists suggested that the biological roots of inequality are greater than the economic ones. As a result of their child rearing function, women have

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¹³) *Ibid, Note 11, P –36*

¹⁴) *Ibid, Note 11, P –37*
always been at the mercy of their biology.

However, recently women, through the new technology of contraception and test-tube baby i.e. producing babies outside the mother's womb, are trying to end male supremacy:

The other group of critics assume that male dominance is the main reason for domestic violence. According to them, after marriage, a wife is obliged to perform household works to maintain the home, to take care of her husband, children, and other members of the family, i.e., in-laws, brother-in-law, sister-in-law, etc. The wife also is obliged to satisfy the sexual needs of her husband even when she does not wish. A husband's obligation is to provide support, protection, and maintenance of his wife and children. Thus, being a wife, it is a full-time job without pay, without freedom of movement. Thus, the prospect of marriage for a woman is as bad or worse as slavery.

4. **Moderates Theory**: According to them, the inequality of women as reflected in low rates of participation and inequality in the political and economic field of society and in the lack of sharing of responsibilities of men, and being busy in child rearing and household tasks are the main reasons for domestic conflict. There solution is to modify the family so that men and women can share and enjoy equal responsibilities and privileges within and outside the family.\(^{15}\)

5. **Coercive Theory**: According to William Goode, the husbands use physical force or threats against their wives because it is a coercive form of social control in the family.\(^{16}\)

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\(^{15}\) *Law relating to Domestic violence – by Dr. R. Revathi, Asia Law House, Hyderabad. p-32*

\(^{16}\) *Ibid* Note- 15
6. Cyclical Theory:

According to Walker’s cyclical theory of violence the interaction between husband and wife is changed in a cyclical pattern. The cycle consists of tension-building phase, an acute phase, and a tranquil, loving, non-violent phase.

i) During the tension building phase minor violence such as slaps and pushes, use of verbal abuse, blaming etc may occur. In this phase the woman may do things according to her husbands instruction or simply tries to stay out of his way.

ii) The Second Phase i.e the acute phase is full of violent outbursts. During this phase the batterer husband may destroy the property and brutally assaults and injures the woman. The attacks may be sexual, physical or psychological. Sometimes batterer may use weapons against the woman.

17) Website : www.cybergrrl.com
Law relating to Domestic violence – by Dr. R. Revathi, Asia Law House, Hyderabad.
iii) In the third and last tranquil phase the batterer may express his regret and shower the victim with gifts. He commonly begs forgiveness and promises not to be violent in future. But in reality the violence may become more severe in future.

7. **Exchange Theory** : According to Exchange theory the use of domestic violence is guided by the extent of cultural tolerance to violence against women in a society and by the principles of costs and rewards of that behaviour. If legal and social sanctions would make such violent behaviour risky then the husband would think twice before using domestic violence upon his wife.19

8. **Behaviourist system theory** : According to this theory domestic violence is learnt and reinforced in the socio-cultural context as the violent spouses have violent family background. In the Indian context domestic violence has a special dimension in the joint families. The violence is either incited or perpetrated by the in-laws, particularly by the mother-in-law. She is even viewed as an agent of patriarchy.20

1.7 **DOMESTIC VIOLENCE AS HEALTH HAZARD** :

Today Domestic violence is not only a legal and social problem, it is also a serious health problem in India. Domestic violence causes mental and physical injury or even drives a woman to commit suicide. According to the WHO’s World report on violence and health, one person dies almost every minute somewhere in the world due to domestic violence. In India many death due to domestic violence are concealed as accidents or attributed to natural or unknown deaths. Many Public health officials suspect that many deaths of women recorded as “accidental burns” were actually murders due to domestic violence.

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19) *Law relating to Domestic violence – by Dr. R. Revathi, Asia Law House, Hyderabad. P-33*

20) *Ibid Note- 19*
Statistics from National Crime Records Bureau of the Union home ministry stated that – 1.35 lakh cases of crimes committed against women every year, of which almost 37% are cases of domestic violence and these are just the reported cases. Domestic violence like physical and mental abuses, cruelty, marital rape, female foeticide etc. causes severe physical injuries and mental trauma among the victim women.

The physical effects of marital rape, may include injuries to private organs, lacerations, soreness, bruising, torn muscles, fatigue and vomiting.

Women who have been battered by their husbands may suffer physical consequences including broken bones, black, eyes, bloody noses, knife wounds etc.

Studies conducted on wife abuse and victim’s reactions, report a high incidence of depression among the victims. Wife abuse has been claimed to produce reactions among the victims such as paralyzing terror, terrifying intimidation, shame and degradation and humiliations and isolation due to depression and anxiety and somatic disorders.

Due to marital rape, some specific gynaecological complications may arise ie miscarriages, still birth, bladder infection, infertility and the potential construction of sexually transmitted disease including HIV. These women are also suffering severe mental and psychological trauma including fear psychosis due to domestic violence and loose their self-confidence totally and confine themselves behind the closed door of their houses.

Sometimes due to immoral relation, bigamy etc. husband who is suffering from the disease of AIDS (Acquired Immuno Deficiency Syndrome) knowingly marries a woman and thereby transmits infection to such woman, there is every possibility for the children begotten to be infected by the AIDS/HIV. Then the husband who is likely to spread the inflection dangerous to the life of the wife and children would be guilty of an offence amounting to domestic violence. Today there are many AIDS patients who were married to persons who were suffering from AIDS and undergoing treatment before marriage.
Not only that, after marriage, domestic violence and threat of such violence dramatically increase women’s risk of contracting to HIV by making it difficult – often impossible for women to abstain from sex, or insist on using condoms, particularly when they know or suspect that their partner is not faithful. Domestic violence also bars women from accessing essential HIV prevention treatment, and care services. According to a joint report of the UNAIDS, UNIFEM and UNFPA says that nearly 20 million HIV+ persons world wide are women. In India 30% of HIV+ women got it from their infected husbands, because they are often unable to use condoms owing to lack of social and economic power.

They are particularly vulnerable to HIV, primarily due to inadequate knowledge about AIDS, insufficient access to HIV prevention service, inability to negotiate safer sex with her husband and a lack of female-controlled HIV prevention methods such as microbicides. Even if a woman was aware of the precautions that ought to be taken, she would not be in a position due to domestic violence to insist on safe sex and would thus allow herself to be infected with HIV virus.21

1.8 THE EFFECTS OF DOMESTIC VIOLENCE ON CHILDREN:

There is a correlation between domestic violence and child abuse. Commonly, many husbands who frequently assault their wives, also frequently abuse their children. Sometimes children can be injured as a direct result of domestic violence. Batterer husbands sometimes intentionally injure children, in an effort to intimidate and control their wives. These assaults can include physical, emotional and sexual abuse of the children.

Sometimes children are also injured either intentionally or accidentally during attacks on their mothers. Assaults on younger children may occur while the mother is holding the child, injuries to older children occurs when an adolescent attempts to intervene in violent episodes.

The children can be adversely affected by witnessing domestic violence. Although many parents try to hide domestic violence from their children but in reality 80% to 90% of children are aware of the violence upon their mothers by their fathers and other relatives, even if they often donot see a beating but hear the screams and see the bruises, broken bones and abrasions sustained by their mothers.

As a result of this experience they suffer from sleep disturbances including nightmares. School-age children who witness violence commonly suffer a range of problem in behaviors including severe shyness, depression, anxiety, frequent illness and other somatic or psychological complaints. Disobedience, destructiveness, aggressiveness etc. are also the consequences noted in these children.

Adolescents who have grownup in violent atmosphere are at risk for recreating the abusive relationship they have seen. Often the conflict between the parents has a profound influence on adolescent development and future adult behaviour. These children are seen most commonly to adopt cruel and inhuman behaviour in future and dominate their wives and children with cruelty and beating.

1.9 DOMESTIC VIOLENCE AS A HUMAN RIGHTS ISSUE:

In India humanbeing is born free, but women's freedom has always been neglected in the name of custom, honour, family welfare and social prestige.

Human rights are fundamental to our very existence and they constitute what might be called “basic rights” from which no derogation can be permitted in the civilized society.
In other words, Human rights could be generally defined as those rights which are inherent in our nature and without which we cannot live as human being.

According to Section 2(d) of Protection of Human Rights Act 1993—"Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International Covenants and enforceable by court in India. So, Human rights and fundamental freedoms are the birth rights of all human beings including women and their protection and promotion is the first responsibility of government.

Today, different crimes against women violate the Women's human rights. The human rights of women generally include the right to equality before the law, the right against gender discrimination, the right against harassment, right to abortion, right to privacy and the right to economic empowerment.

Recently "right against domestic violence" has also gained recognition as a human right by different International Women Convention.

Domestic violence is a violent victimization of women within the boundaries of the family; usually by men/husbands or his relatives to whom the women are married or with whom they have matrimonial relationship. Violence can be both physical and psychological.

Domestic violence is a threat or aggressive behavior towards women not only to her physical being but also towards her self respect and self confidence.

The Universal Declaration of Human Rights 1948 stated that women are indeed human and therefore entitled to enjoy human rights accorded to all the human beings. Such as—right to liberty and equality, freedom from slavery and servitude, freedom from torture or cruel in human or degrading treatment or punishment, freedom of movement, freedom of opinion and expression, Right to property etc.
So, Domestic Violence contravenes the Universal Declaration of Human Rights,

**Article 1**: All human beings are born free and equal in dignity and rights,

**Article 3**: Every one has a right to life, liberty and security of person.

**Article 5**: No one shall be subjected to torture, inhuman or degrading treatment or punishment.

**Article 12**: No one shall be subjected to arbitrary interference with (her) privacy, family, home or correspondence, nor to attacks upon (her) honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 18**: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Domestic violence also violated the provisions of International Covenant on Civil and Political rights 1966 (such as right to life, freedom of opinion and expression, right to privacy, freedom of movement and choice of residence) and International Covenant of Economic, Social and Cultural Rights 1966 (such as—right to health care, right to adequate standard of living including food, clothing and housing, right to take part in cultural life etc).

The Vienna Declaration and Programme of Action, 1993 and Beijing Declaration and Platform for Action 1995 have acknowledged that domestic violence is undoubtedly a human right issue.

The United Nations Committee on Convention of Elimination of All Forms of Discrimination Against Women in its general recommendation has stated that State parties should act to protect women against violence of any kind especially that occurring within the family i.e Domestic Violence.

Therefore India as a state party incorporated all the human rights declared by the General Assembly of United Nation under the Indian constitution. The Fundamental Rights was placed in part III and the Directive principles in part IV of the Constitution of India.
According to Art 21 of the Constitution of India “No person shall be deprived of life or personal liberty except according to procedure established by law.” This “Right to life” includes—Right to live with human dignity, Right to shelter, right to privacy etc.

Right to dignity is one of the most recognised Human Rights. It is an important human right because the other human rights without a right to dignity can’t be enforced. “Dignity” is attached to the identity of a human being as a person, when a human being does not enjoy the right to be a person, dignity does not exist at all.

Domestic violence attacks the very dignity of a woman and considers woman as a chattel.

In India, domestic violence contravenes Article 21 of the Indian Constitution and undermines the self-respect and dignity of the victim women. Domestic Violence puts woman in a miserable position whether she is educated or uneducated. In our country domestic violence takes place behind closed doors and considered as a private matter. So, generally relatives, neighbours, police etc are reluctant to intervene. Women from all sections of society, of all income groups, educational levels and socio-economic strata, suffer this violence silently. Cruelty and wife beating are most common form of Domestic violence in our society which are not even reported. Most of the women sincerely believe that a husband has a right to beat his wife, she is afterall his property, because they are not conscious about their basic human Rights. In domestic violence cases, commonly the victim woman fears about the social stigma of living alone, so called family prestige, the future of her children, financial problems etc. and are unable to leave her matrimonial home and suffer this torture silently.

This attitude of women has slightly changed in recent years. Today women are conscious about their human rights. Now they do not suffer silently, they protest against this kind of cruel and inhuman behaviours of their husbands and in-laws. They lodge FIR before a Police Station under section 498A I.P.C and by this way try to stop this violence.
initially and punish their husbands and his relatives under the law. Domestic violence is not restricted to wife battering only, it includes torture for dowry (physical, mental, sexual, emotional abuse), minor burning to fractures, throwing acid and sometimes leads to murder also. Generally it can be noticed that wife beating and cruelty like daily repetitive violence finally culminates in dowry death of the victim. Bride burning, marital rape like devastating, extraordinary and sensational forms of domestic violences are now treated as grave human rights violation under Indian Constitution Art 21.

It is also most regretable to mention that, despite the presence of “The Protection of Women from Domestic Violence Act, 2005”, it is very difficult to get a husband or in-laws arrested for ill-treatment or cruelty. Not only that, instead of registering the victim woman’s complaint, the police officer commonly would counsel her about her role and duty in the house, that she must please her husband and in laws and obey them. In most of the cases the victim woman is sent back without even registering a complaint.

There are many cases of serious type of domestic violence like dowry death, murder etc, where the culprit with active connivance of the police, destroys the incriminating evidence of the crime and by this way escapes from punishment.

In cases of Female foeticide (i.e killing a girl child before she is born) and Female infanticide (i.e killing of a female infant soon after her birth, specially with the consent of her parents), Marital rape, Sati pratha etc, the violence is also attacking the very dignity of womanhood and violates the Human Rights of women. All these heinous domestic violences show that women as a gender is unwelcome on this earth, because the very concept that the “girl child is liability and boy is an asset” is deep rooted in our Indian Society.

1.10 NEED OF THE PRESENT STUDY:

In the recent years in West Bengal, domestic violence against women like ill-treatment and cruelty by husband and in-laws, wife beating, bride burning, dowry death, suicide etc are increasing unlimitedly.
According to West Bengal Commission for Women, in 1998, cases relating to different domestic violences in West Bengal were 4978 in number, which has increased to 45% in the year 2005. Not only that, in Calcutta High Court every day at least 20 cases relating to domestic violence are coming from different districts of West Bengal. In West Bengal 56% women are suffering from Domestic violence silently, among them only 12% women are now trying to protest against this heinous crime.

Recently “The Protection of Women from Domestic Violence Act, 2005” a civil law was introduced to eradicate Domestic Violence from the society but it is unfortunate to be mentioned that, many women still do not know about this Act. According to this Act, Protection-officer or Service-provider will settle the dispute among couple in every district. But the West Bengal Govt. still has not appointed any such officer in the districts of West Bengal.

According to many women organisations due to domestic-violences like suicide, dowry death, murder, bride burning, cruelty, wifebeating etc., the cases of divorce, judicial separation etc are increasing.

In many families, dispute are arising between a couple within 6 months of marriage and marriages are broken down within a year.

So, recently Domestic Violence is a burning problem not only in India but also in West Bengal. It is no more a private problem now, it is treated as a social problem. Almost every classes of women i.e. from Upper class to lower class, from educated to uneducated, are victim of domestic violence for different reasons. They are tortured physically and mentally by their husbands and in-laws in their matrimonial homes and due to this violence, they lose their self-confidence, dignity and became crippled mentally and economically and sometimes murdered by their husbands and in-laws or commit suicide due to frustration from all.
In West Bengal, it is high time now to take effective action against domestic violence and aware the women about their basic human rights which is being violated due to Domestic Violence. So, myself as a researcher felt it necessary to make a thorough analysis of the rights of women, the existing laws dealing with domestic violence, the response of the Indian Judiciary, National Commission for Women, West Bengal Commission for Women and different NGOs relating to Domestic Violence and to moot suggestions for eradicating domestic violence.

In this context a case study of West Bengal has been undertaken and the effective functioning of High Court of Calcutta; the role of various NGOs for Women of West Bengal and the role of West Bengal Commission for Women (WBCW) have been pursued thoroughly for this research work.

1.11 THE OBJECTIVES OF THE STUDY:

The specific objectives of the present study are :-

i) To trace the historical developments of the Problem.

ii) To examine the various theoretical aspect of the domestic violence.

iii) To critically evaluate the constitutional and legal provision to prevent domestic violence and to moot suggestions for eradicating domestic violence.

iv) To critically appraise the judicial pronouncement on domestic violence cases.

v) To review the role of National Commission for Women, West Bengal Commission for Women and different NGOs working for women etc.

vi) To determine through field study of the cases and socio-economic profile of the victims of domestic violence in West Bengal.

vii) To suggest remedial measures.
1.12 HYPOTHESES:

i) Greed for money and male dominance are the some of the root causes of domestic violence against women. Inspite of the enactment of plethora of laws in this regard, domestic violence against women will continue till the attitude of the people is changed.

ii) The existing laws on domestic violence are deficient and inadequate.

iii) The patriarchal attitude of the Judiciary is reflected in the statutory interpretations resulting in gender injustice.

1.13 METHODOLOGY:

The methodology of my study is partly analytical and partly empirical. The analytical study is based on secondary data gathered from various sources such as books, Journals, Magazines, Articles of different Indian and foreign writers, Newspapers and Law Reporters etc.

I have studied and analysed cases and Judgments of Supreme Court of India from 1983 to 2005 on this subject. I have also studied different Calcutta High Court Journals from 2002-2005 on this subject.

For my empirical study, I visited Calcutta High Court, West Bengal Commission for Women, different NGOs etc and got valuable informations regarding domestic violence. So far the case study of West Bengal is concerned, I collected data from the field work by taking interviews with questionnaires of fifty victim women and their relatives.

1.14 LIMITATIONS OF THE STUDY:

Since the scope of domestic violence against women is vast, I, the researcher, have confined my study only to domestic violence against married women at their matrimonial
homes covered under section 302, 304B, 306, 498A, 494 etc. of Indian Penal Code and the relevant provisions of Dowry Prohibition Act and the newly enacted “The Protection of women from Domestic Violence Act, 2005.”

Cases only on dowry death, bride burning, cruelty and bigamy reported in the AIR (All India Reporter), Criminal Law Journal from 1983 to 2005 have been taken for detailed study.

The gigantic nature of the problem (domestic violence against women in West Bengal) makes it impossible to conduct survey on all over the West Bengal. So, the primary data was collected a few, only from fifty victims of domestic violence offences which occurred between 2003 to 2005 mainly in Calcutta, Hooghly, Howrah, North and South 24 Pargana district of West Bengal.