INTRODUCTION

“Bride tortured to death for dowry”, “School going kid succumbs to his injuries after beaten by father”, “A seventy year old man killed over property dispute”, “Harassment of men in Chandigarh…” All these and what not, turn to any newspaper at random and you would find the reports of such kind of violence all over the country. These are all what we come to know through different forms of media. There are more such cases which go unreported every day. In fact, include the cases which we our self indulge in, or the ones which we witness in the neighborhood but are hesitant in taking even a single step to reduce their occurrences.

Violence against women is present across the world cutting across boundaries of culture, class, education, income, ethnicity and age. When the violence occurs within home, the abuse is effectively condoned by the tacit silence and the indifference by the instruments of the state and the law-enforcing machinery. Internationally, one in three women have been beaten, coerced into sex or abused in their lifetime by a member of her own family. Domestic violence is the most prevalent yet relatively hidden and ignored form of violence against women and girls. While reliable statistics are hard to come by, studies estimate that, from country to country, between 20 and 50 per cent of women have experienced physical violence at the hands of an intimate partner or family member. Wife beating is not only rampant, but male justify it with plethora of contexts.

In our society, violence is bursting. It is present almost everywhere and nowhere is this eruption more intense than right behind the doors of our homes. Behind closed doors of homes all across our country, women
are being tortured, beaten and killed. It is happening in rural areas, towns, cities and in metropolitans as well. It is crossing all social classes, genders, racial lines and age groups. It is becoming a legacy being passed on from one generation to another.

The term used to describe this exploding problem of violence within our homes is Domestic Violence. This violence is towards someone who we are in a relationship with, be it a wife, husband, son, daughter, mother, father, grandparent or any other family member. It can be a male’s or a female’s atrocities towards another male or a female. Anyone can be a victim and a victimizer. This violence has a tendency to explode in various forms such as physical, sexual or emotional.

Since times immemorial, domestic violence has been an intrinsic part of the society we are living in. The contributing factors could be the desire to gain control over another family member, the desire to exploit someone for personal benefits, the flare to be in a commanding position all the time showcasing one’s supremacy so on and so forth. On various occasions, psychological problems and social influence also add to the vehemence. The present essay deals with the various forms of domestic violence prevalent in India. Their causes of occurrence in households have been analyzed categorically. The variation in the intensity of the forms with change in the geographical location and culture has also been addressed. The aftereffects of different kinds of domestic violence and the possible remedies have been highlighted. Finally, a conclusion has been drawn after the complete analysis of the topic with the juxtaposition of facts and figures at hand.
(1) **Domestic Violence against Women**

This form of domestic violence is most common of all. One of the reasons for it being so prevalent is the orthodox and idiotic mindset of the society that women are physically and emotionally weaker than the males. Though women today have proved themselves in almost every field of life affirming that they are no less than men, the reports of violence against them are much larger in number than against men. The possible reasons are many and are diversified over the length and breadth of the country. According to United Nation Population Fund Report, around two-third of married Indian women are victims of domestic violence and as many as 70 per cent of married women in India between the age of 15 and 49 are victims of beating, rape or forced sex. In India, more than 55 percent of the women suffer from domestic violence, especially in the states of Bihar, Uttar Pradesh, Madhya Pradesh and other northern states\(^1\).

**State-wise Cruelty by Husbands and Relatives During 2011**

<table>
<thead>
<tr>
<th>S.No.</th>
<th>State/UT</th>
<th>Cruelty by Husband and Relatives Incidence</th>
<th>Rate of Cognizable Crime</th>
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<td>S.No.</td>
<td>State/UT</td>
<td>Cruelty by Husband and Relatives</td>
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<td>7.</td>
<td>PUDUCHERRY</td>
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<td></td>
<td><strong>TOTAL (ALL INDIA)</strong></td>
<td><strong>99135</strong></td>
<td><strong>8.2</strong></td>
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Source: Crime in India, 2011 Statistics, NCRB, p. 218

The most common causes for women stalking and battering include dissatisfaction with the dowry and exploiting women for more of it, arguing with the partner, refusing to have sex with him, neglecting children, going out of home without telling the partner, not cooking properly or on time, indulging in extra marital affairs, not looking after in-laws etc. In some cases infertility in females also leads to their assault by the family members. The greed for dowry, desire for a male child and alcoholism of the spouse are major factors of domestic violence against women in rural areas. There have been gruesome reports of young bride being burnt alive or subjected to continuous harassment for not bringing home the amount of demanded dowry. Women in India also admit to hitting or beating because of their suspicion about the husband’s sexual involvement with other women. The Tandoor Murder Case of Naina Sahni in New Delhi in the year 1995 is one such dreadful incident of a woman

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being killed and then burnt in a Tandoor by his husband. This incidence was an outcome of suspicion of extra marital affairs of Naina Sahni which led to marital discord and domestic violence against her.

In urban areas there are many more factors which lead to differences in the beginning and later take the shape of domestic violence. These include – more income of a working woman than her partner, her absence in the house till late night, abusing and neglecting in-laws, being more forward socially etc. Working women are quite often subjected to assaults and coercion sex by employees of the organization. At times, it could be voluntary for a better pay and designation in the office.

Violence against young widows has also been on a rise in India. Most often they are cursed for their husband’s death and are deprived of proper food and clothing. They are not allowed or encouraged for remarriage in most of the homes, especially in rural areas. There have been cases of molestation and rape attempts of women by other family members in nuclear families or someone in the neighbourhood. At times, women are even sexually coerced by their partner themselves against their will. They are brutally beaten and tortured for not conceiving a male child. Incidents like, ripping off a woman’s womb for killing the female foetus when she disagrees for abortion have also come to light especially in rural areas. Female foeticide and female infanticide continue to be a rising concern.

Also as expressed by Rebecca J. Burns in the following lines, “When I am asked why a woman doesn’t leave abuser I say: Women stay because the fear of leaving is greater than the fear of staying. They will leave when the fear of staying is greater than the fear of leaving.” A common Indian housewife has a tendency to bear the harassment she is
subjected to by her husband and the family. One reason could be to prevent the children from undergoing the hardships if she separates from the spouse. Also the traditional and orthodox mindset makes them bear the sufferings without any protest.

Other forms of physical abuse against women include slapping, punching, grabbing, burdening them with drudgery, public humiliation and the neglect of their health problems. Some of the other forms of psychological torment against them could be curtailment of their rights to self-expression and curbing the freedom to associate with the natal family and friends.

(2) Causes of violence:

There are 4 main reasons for domestic violence to persist in India.

1. Male dominated society: Even though women had risen to top positions, India was & still remains as a male dominated country.

2. Lack of awareness of Laws: Victims of domestic violence are afraid to protest as there is lack of awareness or rather lack of initiative to make her aware of her rights.

3. Laxity in implementation of the existing Acts: No or less efforts are made to increase awareness amongst the women by the authorities posted to implement the Act.

4. Bureaucracy & Fear: If a domestic violence is reported by a third party then he/she is scrutinized as an intruder and problem maker by the community. The bureaucracy associated with reporting of domestic violence, lack of funds for support group adds up to the continued domestic violence in India.
(3)  Domestc Violence Against Men

There is no question that domestic violence directed against women is a serious and bigger problem, but domestic violence against men is also increasing gradually in India. The supremacy of men in the society makes one believe that they are not vulnerable to domestic violence. Battering of men by their spouse and family members has become a concerned issue and is another form of domestic violence under purview of judiciary. In India, compared to violence against women, violence against men is less frequent but it has already taken a deadly shape in many of the western countries by now.

Males have reported incidences of assault against them like pushing, shoving, slapping, grabbing, hitting which are intended to harm them and also take their lives on many occasions. Recently, hundreds of husbands gathered in Chandigarh and Shimla to voice their opinion for men’s rights and protection against domestic violence subjected to them by their wives and other family members. It reflects the need for a special law for curbing domestic violence against men in present times.

If we contemplate over the reasons behind this form of domestic violence we would find some of the possible causes such as not abiding by the instructions of the wives’, inadequate earning of men, infidelity towards wives, not helping the partner in household activities, not taking a proper care of children, abusing the spouse’s family, infertility of men, spying the activities of partner, doubting the partner all the time and not trusting her, revolt by the wife when asked to look after in-laws etc. On many occasions the spat between men and women becomes public thereby influencing the society around especially in the villages. In urban
areas such forms of violence may go unreported because of greater privacy. Also the families find their reputation at stake in urban areas.

(4) **Domestic Violence Against Children/Teens**

Children and teenagers in our society are not spared from the evil of domestic violence. In fact, this form of violence is second in terms of number of reported cases after the ‘violence against women’. There is a lot of variation in the form of its occurrence in urban and rural areas and in upper/middle class and lower class families in India. In urban regions, it is more private and concealed within the four walls of homes. The possible reasons could be disobeying parental advises and orders, poor performance in academics or not being at par with other children in neighbourhood, debating with parents and other family members etc. In addition to this, factors like not being socially intelligent or as active as the parents expect them to be, abusing the parents or speaking ill about other family members, not returning home on time are some other factors.

In rural areas the reasons could be harassment for child labour, physical abuse or harm for not following family traditions, forcing them to stay at home and not allowing them to go to school etc. Domestic violence against girls is in fact more severe at homes. As the common mob mentality of India prefers to have at least one male child after marriage, the girls in most of the occasions are cursed and assaulted for having taken birth in the home. This kind abuse is prevalent both in cities and villages but is more common in latter case. Then there are cases of paedophilia causing sexual harassment of children in homes by family member themselves. In fact the number of rape cases of pre-matured girls has been rising since last few years. A survey of teens and college students found that rape accounted for 67 percent of sexual assaults in
girls. Apart from sexual abuse and rape, pushing, slapping, punching, stalking and emotional abuse are other forms of domestic violence against children.

Adding to the above mentioned causes, there are also instances of abuse against children who are physically and/or mentally challenged. Instead of providing them proper health care and treating them politely, these children are beaten and harassed for not cooperating and attending to what family members ask them to do. They are even emotionally abused by cursing them having been in such retarded or handicapped state. In fact in poor families, there have been reports of selling body organs of the retarded children for getting money in return. It reflects the height of cruelness and violence against innocent children.

(5) Domestic Violence Against Olds

This form of domestic violence refers to the violence which old people at home are subjected to by their children and other family members. This category of domestic violence largely goes under-reported in India. It is because of the dependency of olds on their children and having a fear of not being looked after or even ousted if the violence is revealed in public. The main causes of violence against aged people are – children being hesitant in bearing the expenses of the old parents, emotionally victimising the olds and beating them to death to get rid of them. On various occasions, they are beaten for doing something against the desire of family members. One of the very common reasons includes torture for property grabbing.

A perturbing trend is the vulnerability of ageing women to domestic violence in various forms. Given existing structures of gender
discrimination, old women are prone to a greater risk than men of becoming victims of material exploitation, financial deprivation, property grabbing, abandonment, verbal humiliation, emotional and psychological torment. When they fall seriously ill, it is more likely that it is the elderly women in the family who will be denied proper health care. There is also a widespread understanding that the neglect, deprivation and marginalisation of older women are the normal consequences of ageing. In fact the plight of young widows in homes as discussed above now becomes more serious as a result of the ageing of those women. They are cut off from the society they are living in, ignored, abused, cursed, and considered as bad omens. The atrocities of sons, daughter-in-laws, daughters and husbands could be another cause of domestic violence specifically against older women. They are restrained from cooking, housekeeping, or participating in activities outside the home.

While it is difficult to accurately measure the extent of the problem on a national scale, given the fact that most families deny that such abuse but we do know that the number of old people in our midst is growing. A current estimate puts the 60-plus population at around 90 million in India and is projected to have a population of 142 million older people by 2020. Given this demographic reality an important concern is the kind of action the country can take at the individual and societal level to alleviate abuse and neglect of elderly class.

(6) Other Forms of Domestic Violence in India

There are some more possible forms of domestic violence prevalent in India other than the ones listed above. On a serious note, family wars or clan wars are deadly forms of domestic violence across the country. The reason of such type of violence include dispute over
property, physically or emotionally abusing any member of other family or clan, any religious cause or conflict arising during a religious ceremony, jealousy because of progress and financial status of other family, inter-caste marriage etc. This form of violence is common in many states like Haryana, Punjab, Andhra Pradesh etc.

One of the other forms of domestic violence is ill-treatment of servants and maids in households. In many of the affluent homes, servants are deprived of their salary and basic necessities. They are harassed and beaten and to work without even taking adequate rest. Similarly maids are molested by males in the family. Atrocities against small children working as servants are common and increasing.

To some extent media is also responsible for contributing to all the above forms of violence. The exaggerated news coverage of reports of domestic violence, the daily soaps screening the torture of a daughter-in-law at the hands of family members, the films portraying an element of violence against people of all age groups etc. are some of the menaces which media is causing. It is influencing the mindset of the viewers strongly. The problem arises when instead of taking a lesson from those news clippings, films, and television shows, people start enacting the same in their homes. Comparatively, the visual media is far more influencing than the print and electronic media in these cases. Illiteracy and mob mentality of majority of Indians misguides them in all these cases.

(A) Consequences of Domestic Violence

There are varied consequences of domestic violence depending on the victim, the age group, the intensity of the violence and frequency of
the torment they are subjected to. Living under a constant fear, threat and humiliation are some of the feelings developed in the minds of the victims as a consequence of an atrocious violence. The consequences of the domestic violence in detail can be broadly categorised under the Effect on the victim himself/herself and the family, Effect on the society and the Effect on nation’s growth and productivity. The ‘Effect on the victim’ has been further subcategorized for women, men, children and olds.

(B) Consequences of Violence Against Women

Battered women have tendency to remain quiet, agonised and emotionally disturbed after the occurrence of the torment. A psychological set back and trauma because of domestic violence affects women’s productivity in all forms of life. The suicide case of such victimised women is also a deadly consequence and the number of such cases is increasing.

A working Indian woman may drop out from work place because of the ill-treatment at home or office, she may lose her inefficiency in work. Her health may deteriorate if she is not well physically and mentally. Some women leave their home immediately after first few atrocious attacks and try to become self-dependent. Their survival becomes difficult and painful when they have to work hard for earning two meals a day. Many such women come under rescue of women welfare organizations like Women Welfare Association of India (WWAI), Affus Woman Welfare Association (AWWA) and Woman’s Emancipation and Development Trust (WEDT). Some of them who leave their homes are forcefully involved in women trafficking and pornography. This results in acquiring a higher risk of becoming a drug
addict and suffering from HIV/AIDS. Some of course do it by their choice.

One of the severe effects of domestic violence against women is its effect on her children. It is nature’s phenomenon that a child generally has a greater attachment towards the mother for she is the one who gives birth. As long as the violence subjected to the mother is hidden from the child, he/she may behave normally at home. The day when mother’s grief and suffering is revealed, a child may become upset about the happening deeply. Children may not even comprehend the severity of the problem. They may turn silent, reserved and express solace to the mother. When the violence against women is openly done in front of them since their childhood, it may have a deeper and gruesome impact in their mindset. They get used to such happenings at home, and have a tendency to reciprocate the same in their lives. It’s common in especially in rural homes in India which are victimised by the evil of domestic violence.

In cases of Intimate Partner Violence (IPV), violence against women leads them to maintain a distance from their partner. Their sexual life is affected adversely. Many of them file for divorce and seek separation which again affects the life of children. Some continue to be exploited in lack of proper awareness of human rights and laws of the constitution.

In India where almost half of the population are women, they have always been ill-treated and deprived of their right to life and personal liberty as provided under the constitution of India. Women are always considered as a physically and emotionally weaker than the males, whereas at present women have proved themselves in almost every field of life affirming that they are no less than men due to their hard work
whether at home or working places. Behind closed doors of homes all across our country, people are being tortured, beaten and killed. It is happening in rural areas, towns, cities and in metropolitans as well. It is crossing all social classes, genders, racial lines and age groups. It is becoming a legacy being passed on from one generation to another. But offences against women which reflects the pathetic reality that women are just not safe and secure anywhere. According to a latest report prepared by India’s National Crime Records Bureau (NCRB), a crime has been recorded against women in every three minutes in India. Every 60 minutes, two women are raped in this country. Every six hours, a young married woman is found beaten to death, burnt or driven to suicide.

Violence against women is not a new phenomenon. Women have to bear the burns of domestic, public, physical as well as emotional and mental violence against them, which affects her status in the society at the larger extent. The statistics of increasing crimes against women is shocking, where women are subjected to violence attacks i.e. foeticide, infanticide, medical neglect, child marriages, bride burning, sexual abuse of girl child, forced marriages, rapes, prostitution, sexual harassment at home as well as work places etc. In all the above cases women is considered as aggrieved person.

The term used to describe this exploding problem of violence within our homes is ‘Domestic Violence’. This violence is towards someone who we are in a relationship with, be it a wife, husband, son, daughter, mother, father, grandparent or any other family member. It can be a male’s or a female’s atrocities towards another male or a female. Anyone can be a victim and a victimizer. This violence has a tendency to explode in various forms such as physical, sexual or emotional. ‘Domestic Violence’ includes harms or injuries which endangers
women’s health, safety, life, limb or well being, whether mental or physical. It may also be through physical, sexual, verbal, emotional and economic abuse. According to ‘United Nation Population Fund Report’, around two-third of married Indian women are victims of Domestic Violence attacks and as many as 70 per cent of married women in India between the age of 15 and 49 are victims of beating, rape or forced sex. In India, more than 55 percent of the women suffer from Domestic Violence, especially in the states of Bihar, Uttar Pradesh, Madhya Pradesh and other northern states.

What amounts to domestic violence against women? Domestic Violence undoubtedly a human right issue where it is very important to know what actually leads to act of domestic violence. The most common causes for women stalking and battering include:- exploitation of women for demanding more dowry, discrimination of women, alienation of women’s self acquired property fraudulently, torture by husband and in-laws of the husband, arguing with the partner, refusing to have sex with the partner, neglecting children, going out of home without telling the partner, not cooking properly or on time, indulging in extra marital affairs, not looking after in-laws, cruelty by husband or in-laws mentally or physically, abusing & insulting by using vulgar language, sexual harassment, molestation, immoral traffic, rape, sodomy and all other inhuman acts. In all above stated causes women are subjected to torture and will be considered as the aggrieved person. Usually violence takes place due to lack of understandings between the couple as well as in the family.

The consequences of domestic violence attack on women, which will affect victim as well as family of the victim. Domestic Violence affects women’s productivity in all forms of life i.e. assaulted women will
always get agonized and emotionally disturbed and remain quite after occurrence of the torment. The suicide case of such victimized women is also a deadly consequence and the number of such cases is increasing day by day. A working Indian woman may lose her efficiency in work or drop out from work in some cases. Domestic Violence may affect the life of children at the larger extent because child will be having greater attachment with her mother and once the mother’s grief and sufferings revealed then child may turn silent, reserved and express solace to the mother. In some of the cases violence will lead to maintain distance from the partner whereby sexual life gets affected adversely. Sometimes marriage life will become a burden to the spouse and one of the spouses will opt out for divorce or separation which again affects life of the children.

In a case where wife is beaten up by her husband doesn’t amount to domestic violence unless a sufficient reason of violation of right to life is shown. In another case where the women just not given food, it amounts to domestic violence if it is intended to achieve the ultimate purpose of necking her out of the benefits of shared household.

To prevent violence against women and to protect the rights of aggrieved women, the legislation ‘The Protection of Women from Domestic Violence Act, 2005’ was passed by the parliament. According to this act every women who have been deprived of their right to life by the act of husband or relatives of the husband, can file a complaint to the protection officer, police officer or magistrate in the form of ‘Domestic Incident Report’ i.e. Similar to First Information Report. Complaint can be filed by the victim /aggrieved person or relatives, it will be considered as the prima-facie evidence of the offence. Every ‘Domestic Incident Report’ has to be prepared by the Protection Officer which will assist in
the further investigation of the incidence. The protection officer will pass certain orders i.e. protection of the women, custody of respondent and order of monetary relief to the victim.

The Government of India should come out with some more stringent laws to protect the rights of women who are victims of violence of any kind occurring within the family, so that it will work as the preventive measure to eradicate the crime. A strict law to be passed to punish those women who are filing a false compliant against husband or relatives by misusing of Domestic Violence Act so that there will be fair justice to all.

(7) **Review of Important Works**

B. Sivarmayya in his article “Towards Equality: The Long Road Ahead” has analytically studied the report of Commission of the Status Women report. He finds women rights receiving great amount of impetus internationally in 1970s. India followed the trend and initiated reforms for women empowerment. But he laments that the reforms are yet to receive full support in India. Many of these reports remain a dead letter in practice. In the field of child marriage, polygamy, inheritance and divorce, women are at the receiving end. The petty politics and political pressures are hampering the implementation of women reforms. Child marriages are still recognized and parents are not strictly punished for the same. A husband is still supposed to hold tenancy right over agricultural land on behalf of his wife. Amongst Muslims triple divorce is still prevalent on large scale. He stresses that modern age has seen the emergence of new patriarchal class which is more sophisticated. He finds this class resorting to the concepts of plurality, minority rights and social rights to block the reforms for women in various communities. He
concludes that the time has come when India need to strongly implement Uniform Civil Code to end all the sufferings of the women in the name of religious, social and cultural traditions. This is a marvelous study regarding the problems faced by women in India. The writer would have contributed more by studying how Uniform Civil Code can be implemented. The judiciary must take more vigorous stand seeing the reluctance of legislation which is moved more by patriarchal elements.

Nandita Haksar in “Human Rights Lawyering: A Feminist Perspective” has critically studied the movements linked to women struggle in India. She starts with the judgement in the case Tukaram v. State of Maharasthra. The justice was denied to a tribal girl Mathura who was raped in police station. Women activist wrote an open letter to Chief Justice of India and criticized the judgement of the court which “gathered an impression from Mathura’s liaison with her lover that she was a person of easy virtue.” The letter further questions, “Is the taboo against pre-marital sex so strong as to provide a license to Indian police to rape young girls?” However, the court refused any relief to women organizations as these had no locus standi. She finds women coming out strongly as the injustice were denied to them individually, and hence in the year 1982, the Supreme Court recognized NGOs right to represent oppressed and exploited people in the court. Then she goes on to study how the judiciary was heavily insensitive towards the plight of the rape victim. She finds weaknesses of holding the in-camera proceedings of rape trials as these would have hampered the access of women organizations. She also discussed the various dimensions in the law of obscenity. She fails to sympathize with rightist wing of interpretation which even protested on Miss World Contest in the name of Indian

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3 AIR 1979 SC 185.
Culture. She opines that misrepresentation of women voice and identity should be curtailed legally. She interestingly build an opinion that a new school of jurisprudence should be evolved and good help can be taken from tribal customs which many a time guarantee more freedom and equality to women. However, she also cautions that codification of these customs would deprive them of evolution and would result in natural death. She concludes that new jurisprudence should evolve from human rights traditions, feminist critiques and tribal jurisprudence. However, one challenge, she finds is how to sensitize the legislature about the true understanding of culture, society and economy ‘with a vision of a future society.’

Flavia Agnes in her work “Law and Gender Inequality” has masterly carried out historical as well as legal perspective of gender injustices in Indian legal system. She critically studies the role of traditions and customs in ancient as well as medieval period for safeguarding the interests of fairer sex. She refuses to accept that Uniform Civil Code is the answer to all the problems the females are facing in Indian social and legal structure. She challenges that the so called Uniform Civil law is a modified adaptation of Hindu laws as envisaged by the colonial masters. She finds same patriarchal elements working in new laws framed for the protection of women. She argues that many a time even the women have emerged as the champion of older patriarchal values. She laments that in the name of Hindu laws, the customs and traditions were sacrificed. According to her the customs went aalong way to protect the rights of women in a household. She compares how traditionally women were entitled to large amount of movable and immovable stridhana, but the same right was conspicuously absent in newly framed Hindu laws. She mocks that claim of woman’s
maintenance by her divorced husband as this maintenance is again based on the concept of sexual purity of the woman. She interestingly studies how monogamy has hampered the prospects of many women who are now not able to demand their legitimate share of maintenance from their husbands. She remarks that earlier, man was responsible for maintaining the second wife but now he is exempted from this as the second lady is at difficulty to prove that she is legally married in light of new limited code of Hindu marriage law. She finds that traditionally women rights were depended on the inalienability of certain property rights in a family, but the modern laws have made position of women more vulnerable. She aptly concludes that the legal system has to look for the dynamics in the modern society which is rapidly evolving and changing. Women are therefore also undergoing many changes. She stresses that Indian laws must address these questions and only then it can redress gender injustice.

Sudhir Chandra in his work “Enslaved Daughters” has studied a famous case of Rukhmabhai⁴ of 1885 in which the later dared the society and law against becoming a property of her husband. He finds the wife Rukhmabhai against her husband Dadaji who had filed a suit for the restitution of conjugal rights against her wife. The author studied the response of contemporary liberal as well as conservative camp. He critically studies the law points involved in the case and how such arguments can force a lady go against her will to submit her physical and mental faculties before her husband. Through Rukhmabhai, the author in a way highlights the evils of the child marriage and how such marriages rob opportunity of education to the girls. She is forced into matrimonial alliance even before her maturity and as a result, the wife remained in perpetual confinement throughout her life. Though outwardly the study

⁴ Dadaji v. Bhikaji, IX ILR 529 (Bombay Series of 1885).
seemed confined to a case yet the work has raised many questions. The author has studied the question of widowhood and divorce in Hindu marriage laws. He finds the implications of English law being imposed on the Indian society which is guided by many customs and rituals. For example, he finds widow remarriage prevalent among many lower castes and even the mother of Rukhmabhai married Dr. Sakharam after the death of her first husband. He explores how restitution of conjugal right was implied in the minds of Hindu law makers yet its execution with the help of force, like in English law, was never even dreamt by ancient sages. On the wider horizon, the author has attempted to highlight the injustices a women face in the name of religion, culture and morality in a given society.

Shobha Saxena’s work, “Crimes against Women and Protective Laws” is an exhaustive attempt on both empirical and theoretical aspect of crimes against women. Divided into nine chapters, this work deals with crimes ranging from rape, dowry, kidnapping, prostitution to domestic violence. She also makes critical analysis of The Indian Evidence Act, 1872, Criminal Procedure Code, 1973 and Indian Penal Code, 1860 with its biases against women. She laments that “the absence of support structure outside the institution of marriage may force women to bear crimes relating to marriage with stoicism.” She also finds the long tenure of court cases acting as a deterrent to women. She remarks that there being no effective redressal system, the women are left to accept their exploitation silently. She finds that in most of the cases the law fails to study the circumstantial evidence. She quotes one such example where a husband is considered innocent if his wife did not complain against him. But at the same time if the burnt lady gives statement against her husband then the soundness of her mind is questioned. She quotes various
cases where man was acquitted inspite of circumstances going against him. She also finds social groups pressuring women to submit to their agonies. She studies many cases where the relatives of women acted as a deterrent because it would have brought stigma to family honour. She challenges the hypothesis between ‘outraging modesty’ and ‘attempt to rape.’ She finds that many a time, a culprit is charged only with Section 354 of Indian Penal Code whereas circumstances prove beyond doubt that he was out to commit rape (Rameshwar v. State of Rajasthan). She highlights how a bad connivance between culprit and police worked against the victim. She finds many a time, culprits putting pressure through threats to the victim. She advocates proper security system for the victim. She asserts that major social opinion and sometimes even the working of women organizations fail to safeguard the victim of sexual harassment. She concludes her work with many suggestions which may work in favour of women in seeking liberty and justice. She stresses upon the need for liberal and fast legal systems, more constructive women organizations, executive machinery should be made women sensitive and more female law officers should be inducted into the system. She finds immediate need to overhaul the rape laws. Rapes on children and adults should be differentiated and stringent provisions should be inserted to punish child rapists. She further finds the need to protect the victims so as to minimise their trauma and ensure justice to them. She suggests enhanced punishments in dowry deaths and circumstantial evidences should be given due consideration.

Zanab Banu in “Tribal Women Empowerment and Gender Issues” propounded the fact that gender differences are due to social and cultural factors. She begins with a hypothesis that every society has its own

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AIR 1952 SC 54.
history, its own structure and therefore gender inequalities vary from Section to Section of the society. No doubt, this book has mainly concentrated upon the inequalities suffered upon by the tribal woman and her empowerment in the post-73rd Constitutional Amendment. However, she somehow draws the conclusion that the common status of the tribal woman can hardly be comprehended without taking into consideration the holistic situation of the tribal women viz a viz a woman in general.

In Embodiment Essays on “Gender and Identity”, edited by Meenakshi Thapan a study has been made to understand and explicate the women’s body, in both its material and representational aspects, in the context of different social, cultural and historical settings in the contemporary society. All the essays address, in one way or another, the questions relating to gender inequality which are revealed in the complex interplay between society and gender in every day life.

In Towards Equality Report of the Committee on the Status of Women in India (CSWI) has reviewed the impact of various legal and administrative provisions for women’s advancement and the current situation in all the sectors and taking into consideration all legal reforms, education and political rights. It suggests that these three institutions were designed in liberated India to realize women rights to equality. But it also laments that these three had failed to benefit the large masses of women who are affected by the problem of poverty and powerlessness, overwork and illiteracy. The committee has highlighted certain lacunas like adequate safeguards, equal social and economic distribution and certain male biases in the system and it finally recommends measure for reforms.

Justice J.N. Bhatt, Judge of Gujarat High Court, in his work, “Gender, Equality: Turmoil or Triumph?” has conceded gender equality
as a basic human right of woman. He has stressed the fact that gender relations needs to be measured in the context of participation and that it is the sharing of the important decision making process that result in inequalities. He concludes that gender based discrimination represents the ugly face of the society. He cautions that this issue is emerging as a major challenge and is one of the most all pervading forms of institutionalized deprivation.

(8) Objectives of the Study

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

(9) Hypotheses

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

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

(10) Methodology

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

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

(11) Scope and Limitation of the Study

The study is an analysis on conceptual adequacy of Protection of Women from Domestic Violence Act, 2005 in comparison with the socio
The focus is limited to a doctrinal study on the topic because of the inherent limitations in attempting an empirical study. Moreover the non-reliable data is likely to come forth in, on the issue of domestic violence as it will be viewed as an invasion into familial privacy. Exhaustive case illustrations on domestic violence are not decipherable from the judgments that have been rendered by the courts in India. The law and practice of domestic violence in United States of America and United Kingdom is discussed briefly and the comparative analysis is made with cultural realities of India. The study starts from a historical analysis as to the perpetuation of gender inequality in Indian and western jurisdictions. The international perspective or overview of international developments in the field of acknowledging the problem of domestic violence against women is analysed being the major premise of the study. In order to understand the Indian legal structure concerning domestic violence, a survey of the available existing legal options is made. The different kinds of laws and strategies, and their advantages and disadvantages are to be explored in the Indian cultural context which is the next task taken up in the study. The research evaluates the impact of major legislations on the positions of the women enduring domestic violence in general legal regime. The study deals with the working and problems of the Act in the Indian cultural set up, the motivations and legal remedies guaranteed. A brief overview of United States and United Kingdom models are done to show the contrast and extent of the acknowledgment of the issue in developed countries. The major task undertaken through the study is to find out the loopholes existing in the present Indian legal scenario to combat the issue and suggest suitable recommendations in consonance with the specific Indian cultural values to overcome the same. The study ascertains the problem areas and challenges in the working of the Act.
giving only a cursory glance and not a comprehensive one, due to the existence of variety of laws on the same issue in different jurisdictions within the same countries. While discussing the issue of domestic violence, the law, its implementation and the outcome is the only ambit of the study. The multidimensional plight of the victims including physical and psychological impact of domestic violence on women and children is analyzed to the extent of concern of access to justice and not from a medico-legal point of view.

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