



# Domestic Violence and Our Society: An Ethical Consideration

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**Abstract:** -Domestic violence in our society has become a burning problem and throws questions for the sustenance of family life. Throughout the world we are experiencing the problems of domestic violence and the destruction of family lives of general people. Domestic violence, as occur in domestic arena, most of the time is suppressed by the family members and sometimes by the victims. In this case the victim resides in baseless ideas that everything will come in favour of the victim and the family life will retain its motion. Sometimes the existence of the children of the family forces the victim to compromise with absurd situation so the victims remain voiceless and the society cannot reach to the victim to support. In recent times domestic violence is granted as criminal offence. Many laws and regulations have been made to fight with this evil. Domestic violence has devastating effects on the physical and psychological well being of women. Through this paper we are going to highlight the effects of domestic violence on our society from ethical perspectives. This paper also going to discuss the system of criminal justice, law enforcement process and the problems of implementation such laws in real field.

**Keywords:** - Domestic violence, Law and regulations, Abuse, discrimination, Dowry, Morality, Equality, Awareness.

**Introduction:** - The word 'violence' itself violates the ethical principles. Because violence means a degraded situation in connection with law and order in one side and in the other side it indicates the loss of life and property of the victim. Violence may occur for different causes. Generally, in case of violence, a group of

people try to protect their group members from the attack of the others. So, there we find a special kind of unity among the group members based on love, mutual respect and human values. But when the prefix 'Domestic' is placed before the word violence the significance of the matter increases to the limit of the sky. The word 'domestic' comes from the Latin word 'domesticus' which is derived from 'domas' bearing the meaning of house. It is presupposed that house is a place of safety, security, integrity, equality, love and mutual respect. Primarily a house is a structure made of materials. But beside the structure there are some essential elements to be a house. There we need reciprocal love, emotion, trust and sharing attitude. Domestic violence destroys all these invisible elements and kills the house though the structure of the house with sophisticated technology stands still. That is why the phenomenon domestic violence is so important topic of discussion to find out the causes of such devastating and family killing phenomenon and at the same time to find out the ways to come out of this critical juncture. In this paper the problems of domestic violence will be addressed from ethical point of view whether domestic violence violates human rights, children rights and destroy the integrity and sanctity of family life.

To understand this phenomenon we have to first discuss what domestic violence is. The term 'violence' refers to any physical force for any damage or injury to person or property. The word 'domestic' makes it different from other violence because it is applicable only to those cases where there is a relationship between two persons who once lived together in a shared household. Domestic violence is applicable in the relationship of consanguinity, marital relationships or where men and women live together, as a couple without marriage. And shared household means a home where woman lives in present or lived in past with a man under one roof. It may happen that at the time of making her complain of violence to the police she may live outside household, but the offence must entitle under domestic violence as long as the domestic relationship sustains. Thus all women who may be someone's wife, mother, and sister or partner of living in a shared household must be taken into account. Thus we can say:

"Domestic violence is violent victimization of women within the boundaries of family, usually by men. Domestic violence is in a majority of cases violence against women by the members of house where she resides. It can be the husband, his parents, or siblings or other resident who has the overt or covert latitude for actions that can cause physical or mental agonies to women.....it happens behind closed doors and its most often denied by the very woman who has been victim of violence". 1

According to domestic violence act, Domestic violence means harming or injuring a woman in a domestic relationship. It includes physical, sexual, verbal, emotional and economic abuse within its ambit. It involves at least two actors or a perpetrator of violence and a victim or a person on whom violence is inflicted. The definition of domestic violence under the Domestic Violence Act is broad and inclusive. It encompasses various forms of physical abuse which involves any act that caused bodily harm or poses threat to life, while sexual abuse encompasses non-consensual sexual acts and marital rape. Verbal and emotional abuse target a victim's

self-esteem and mental well being, often through threats, insults or manipulation. Economic abuse, on the other hand involves controlling or withholding financial resources, thereby exerting control over the victim's economic autonomy. Thus the definition of domestic violence should be as following:

“Domestic violence is a pattern of abusive behaviour in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economical or psychological actions or threats of actions that influence another person”. 2

Characteristics of domestic violence make it distinct from other forms of violence due to its specific and special domain. Unlike random acts of violence perpetrated by strangers, domestic violence occurs within the context of intimate relationships typically between family members or partners. This close relationship between the perpetrator and the victim makes it very unique in nature. Domestic violence is based on the theory of consumption and display of power and dynamics of control over the victim that the perpetrators misuse. Domestic violence occurs behind closed door of a shared household in a conjugal relationship and relationship of consanguinity. This clandestine nature of domestic violence makes it harder to detect and most of the time victim's feel trapped and unable to seek help due to fear, shame or being dependent on the abuser.

Though victims of domestic violence are mainly but men are not exempted from such violence because domestic relationship includes both men and women in a shared household. We live in a society where men are trained to be strong and masculine in nature. But sometimes men can be fragile, submissive, gay, bisexual and transgender who are at more risk of domestic violence. We taught our male child since their birth that ‘men don't cry’. To maintain their masculine prestige they did not discuss their family and personal problem in front of the society. Because people around them are not sensitive enough to understand that men are also human beings with emotion, they also feel pain, humiliation and agony. Many countries in this world do not have any law to protect men from domestic violence. Women sometimes use domestic violence laws wrongly to gain property or to harass their husbands by falsely accusing them as the perpetrator of domestic violence against those women. So, we can quote that:-

“Another reason they stay unobtrusive regarding this topic is that sometimes they are threatened that they will be falsely accused of a dowry harassment case if they do not comply with the terms of the woman. Even if they file a divorce, they are further harassed and accused of false claims. In fact, in 2013, then percent of cases filled under 498A of the Indian Penal Code, i.e. the dowry harassment law, turned out to be false. The man cannot even safeguard himself as minimal legal remedies are available to him. He suffers in silence as his masculinity is questioned if he tries to speak up. In *Arnesh Kumar vs. State of Bihar*, the Hon'ble Supreme Court also admitted that the provisions under Section 498A of the Indian Penal Code are being utilized to harass the husbands and his relatives by disgruntled wives”. 3

India is a holy land full of culture, mythology where various goddesses are being worshipped but at reality here in India females are being mal-treated, abused, beaten and forced those women to lose their life. Even in 21<sup>st</sup> century the scenario remains the same where imbalance of power and quest to control a person in a relationship is at centre. So, we can define an act as domestic violence where any harm or injuries that endanger the health, safety and life of a human being especially women. That oppression or violence can be physical, mental or emotional or psychological, social, verbal, sexual and economical. So, we can say the domestic violence can be categorised into these types. Let us discuss all these types briefly:

1. **Physical abuse:** - Physical abuse is the most common type of domestic violence. This kind of assault includes severe injury which is a result of a punch or a kick, shooting, choking, slapping, and battering. Such physical violence often results as death or severe damage in organs of the victims. Physical abuse rise to such extreme level that sometimes it results as homicide.
2. **Mental abuse or psychological abuse or emotional abuse:** - Any frightening or fear insisting behaviour is referred as psychological abuse which creates a sense of danger among the victims. In most of the cases of psychological or emotional abuse victim or injured person is banned from taking to other person about her state of mind or her abuse. Victim is not allowed to move outside and most of the time the victim remains confined in home where the perpetrator treats them with hostility. Moreover psychological abuse did not leave any physical mark of harm but leave a permanent stain on the victim's mind which leads to post traumatic stress and mental disorder. Such emotional distress sometimes increases to that extreme level that as a result the victim commits or attempt suicide.
3. **Verbal abuse:** - Another method of domestic violence is verbal abuse. Verbal abuse is using hurtful language to demean or intimidate someone. It is also a form of emotional abuse because it also leaves devastating psychological effect on the targeted victim. A range of words or behaviour that is used to humiliate, manipulate and to show off power and to gain or retain control over the victim is called verbal abuse. Verbal abuse includes various methods like criticism, manipulation, blame, accusation, discrimination and threats which all are imposed upon the victim to scare, isolate and gaining control over the victim. These methods of domestic violence by verbal abuse completely destroy self esteem of the victim.
4. **Economical abuse:** - Most of the cases of domestic violence start with economical abuse. Such abuse includes demand of dowry or other valuable properties from wife or her relatives. Failure of gaining money and property from wife as dowry gradually results as physical and mental abuse. Economic abuse has another dimension too which includes not providing money, food, shelter, cloths, medicine and treatment to wife and children that can be considered as child abuse. Selling valuable assets of wife is granted under economical abuse. For centuries, women in India have been socially and economically handicapped. As a result of their lower status in our society and family they are always been the target of domestic violence by their male counterparts.

5. **Sexual abuse:** - Sexual abuse is a common part of domestic violence; such an assault includes forceful sexual intercourse. Forcing a woman, girl or child to watch pornography or other obscene material, forcefully using a woman to entertain others sexually is also treated as such violence because all these acts violate one's dignity. Sexual violence includes accusation on women's character and suspects her conduct etc. Sexual abuse includes marital rape also. Forbidding using contraceptive pill and forced to have an abortion can also be treated as sexual abuse.
6. **Social abuse:** - An act of domestic violence can only be called as social abuse when abuse comes from society on the victim through various ways. Such violence includes accusation on women's character, suspects her conduct, misbehaved, confined and banned her from the society. Insult for unable to give birth to a male child or giving birth to a girl child or unable to conceive are also methods of social abuse. Some societies restricted women from going to school or college for higher education. Pursuing carrier of her own choice and preventing her marrying a person of her own choice for holding family prestige in front of the society is also included among social abuse through the form of domestic violence.

Thus we can quote that: "According to the United Nations, domestic violence on women can happen in public or private life and domestic violence is all-encompassing social health problem, which is possible to be solve, but no special effort to eradicate it has ever been made by any great man/movement/ or public mind in any period. Some kinds of domestic violence in ancient times in India include practices of Sati, Devdasi etc. (Sharma & Kumar, 2023). In Indian society, even a pregnant woman is not exempted from the cases of domestic violence, but even then there is many types of physical and verbal harassment, is very common. If seen from the point of view of health, it can also prove fatal for the health and safety of both the mother and the fetus. The prevalence of domestic violence in India is 37%. (Garg & Singh, 2013), according to the general data, which can be similar in different states. Many women of reproductive age die from a variety of diseases, including malaria, cancer, traffic injuries or the effects of war. The combined figure for all these is also less than the number of deaths among pregnant women due to domestic violence. (Mahapatra et. Al., 2011) 4

Domestic violence is not a sudden act which is accidentally imposed on the victim. Behind domestic violence there are multiple causes and the causes of domestic violence have various dimensions too. There is no single factor to account for violence perpetrated against women. Various researches and case studies have proved that several complex and interconnected cultural, social, economical, legal and political factors have kept women particularly vulnerable to the violence against them. History has proved that unequal distribution of power between men and women is the main contributing factor behind this barbaric act. Our society and family believe in inherent superiority of males and they always try to keep control over women's sexuality and freedom. Legislation and cultural tradition that has denied women and children has independent legal and social status acts as fuel for domestic violence crimes. So, we can easily categorise the causes of domestic violence as following:

1. **Unequal distribution of power:** - From the beginning of society there is a tradition of men domination as a result of traditionally imbalance of power relations between men and women, which certainly resulted in men's dominance and discrimination against women which results as oppression on women and dismissal of women's freedom and also denial of humanly existence of women. As per research:

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women.....”<sup>5</sup>

2. **Patriarchal society:** - In our Indian society always male are the head of family and Indian society is also dominated and governed by male. In a word our society is truly patriarchal by nature. In such a society inferior position of women are very natural. Men demand and expect that women must always obey them and lead their life in accordance with the opinion and guidance of the patriarchal society imposed rules on the women. Unless they must be subjected to punishment as a form of domestic or social abuse.

3. **Lack of consciousness:** - Another cause behind domestic violence is the barrier to reach and utilize laws and regulations made to fight against such evil act. The constitution of India has taken several steps and reservation for women in different fields of life like education, safety, employment for positive progressiveness of women in our society. Our constitution prohibits all types of discrimination against women and for which constitution has different laws also. But only written laws are not enough to protect and prosper women in our conservative patriarchal society. Only written law could not change our society overnight, because most of the women in India are not conscious about the existence and uses of these laws. Lack of awareness and moral support is the main problem. They all consider oppression on them as their fate and right of their husband and other family members as they feed and give shelter to these women. The concept of domestic violence is mostly void for those women.

4. **Sense of social status and prestige:**-Some women in India tolerate domestic violence and fears to make complain to police or inform others about their abuse because they are very much aware about sustaining their social status and prestige. Not only uneducated and lower class women of our society are the victims of domestic violence due to their silence but also highly educated and upper class women of elite society women also be the same. Even they remain very much aware about that the incident of their abuse by their husband or family members is to be kept in secret, so that their social status and prestige remain intact. We can put some example here:

“Famous actress Karishma Kapoor's divorce from her husband Sanjoy Kapoor and Bihar case of domestic violence by a famous political family on their daughter-in-law also comes under the domestic violence cases. It is clear from these two examples that even status, money and social prestige cannot stop the pique and irate men of the society from doing violence on their women”. <sup>6</sup>

5. **Lack of education and financial crunch:**-In most of our Indian society raising a girl child is treated as a burden for their parents and family who just want to get exemption from this burden by marrying their daughter as soon as possible. According to them a girl could not continue their lineage and earn money for them so spending money on their education is nothing but vain. As a result they could not get proper education and also could not pursue their carrier and remain jobless. As a result they suffer from financial crunch lifelong and they have to depend on their future husband to survive, which is the absolute cause of domestic violence against them.
6. **Lack of moral support:** - When a woman faces domestic violence and seek help from her parents or relatives they most of the time did not get any moral support and advice to adjust in that situation more patiently and calmly. This theory of adjustment proved to be fatal for the victim. A large portion of our society believes that marriages are unbreakable and sustaining a marriage only depends on wife. Due to lack of moral support a woman has to tolerate oppression on her.
7. **Sense of duty of the victim:**- various case studies has proved that another cause of domestic violence is most of the women feel a self imposed responsibility to maintain the prestige of family and sustaining marital relationship. Most of the married women who have children also remain silent because they think about their children's future and upbringing for which she is completely dependent on her husband.
8. **Day dream:** - Women of our society till date fear to get rid of an abusive relationship because they still think that it is their fault so they have to be more generous and clam to their husbands. They hope that more obedience, love and care for their partner may change the scenario some day. And they day dream that soul and behaviour of their abusive husband will change. This day dream did not work in real life but only prolong their sufferings.

Whatever the cause may be there behind such barbaric act the effects of this act is surely devastating on the affected person and as well as on the society also. Let us now discuss them briefly:-

1. **Effects on victim's physical and mental health:**-Domestic violence by intimate partner or family members affects women's physical and mental health from direct pathways like physical injuries like fractures and broken bones or teeth, eye sight and hearing damage and chronic health problems that arise from prolonged trauma and mental stress. Not only bodily harm but also the victim suffers from ailment and anxiety in so higher level that most of the time they commits suicide. Degradation of mental health and emotional distress and absence of moral and mental support is the common aspect behind mortality rate of victim women in our country whether by homicide or suicide.
2. **Effects on children:** - Domestic violence by husband on wife not only affect wife but also affect their children both physically and emotionally. Children who witnessed such oppression on their mother in their home suffer from anxiety, depression, poor educational performance and behavioural abnormality. An uncertainty of healthy lifestyle gives birth to suicidal tendency along with their mother. Not getting healthy food, treatment in physical ailment results in mal-nutrition and

sometimes death. An unwanted girl child is very much vulnerable to such violence. Not only that witnessing such violence from the childhood sometimes grows a abusive nature among those children which they apply on their partner in future.

3. **Effects on elders:** - Domestic violence on older people creates emotional harm which includes loss of confidence, embarrassment and isolation from family, friends, community and society. Generally such abuse on elders includes financial, material and psychological deprivation. Unless fulfilling the demand of abusive family members such elderly people experience physical injuries, premature mortality and permanent placement in old age homes and free government hospitals without taking any obligations towards them. Thus we can quote:

“The victims of such type of abuse are generally people above the age of 60 years. This type of abuse may include physical and emotional abuse, as well as abuse in other forms, like taking away financial support. Such abuse is also not covered under any Indian law. However, elderly people are entitled to maintenance under Section 125 of Criminal Procedure Code, which is a gender neutral provision”. 7

4. **Violation of human rights:** - Every act of violence surely is a violation of human rights and domestic violence is not an exception. According to our constitution every human being irrespective of caste, creed, gender and religion contains the right to life, freedom of choices. And if some other person is harming that right is committing crime. Everyone has the right to humane and dignified treatment. Domestic violence in every aspect results in physical, sexual and psychological harm or suffering to women, children and others. Domestic violence is a deprivation of liberty and human basic rights whether occurring in public or in private life. We have to acknowledge that violence against women seriously hampers women from using their humanly rights and freedom on equal terms with men. So, surely the effect of domestic violence is violation of a number of human rights. In contemporary era several initiatives are being taken to fight with this evil. Role of government is very important to control such barbaric act. In India to defeat this evil different provisions are made, ‘Protection of Women against Domestic Violence Act, 2005’ is one among them. This law not only protect those victim women who are abused by their spouse or in-laws but also it protect every victim women who are living in a domestic relationship with a person. To understand the actual implementation of this act we have to know which kind of protection can be acquired by a victim. According to Section 18 of the Domestic Violence Act, a magistrate has the authority to issue a protection order when a victim woman approach and complain to magistrate when she is subjected to violence. All those activities that are illegal under the Domestic Violence Act is a part of the country’s criminal code so every human being must refrain from harming women physically and mentally. In this law additionally, Section 23 of the Domestic Violence Act allows the magistrate to issue a restraining order for such violence which enable penal action against the perpetrator.

In the zeal of providing protection and assistance to women, this act has given recognition and legal status to extra-marital relationship or other immoral relationship, which are neither recognised by our society or by our existing matrimonial and penal law. This legislature while passing the Act did not notice that having sexual intercourse with any person other than his or her spouse is a ground for divorce. Even Sections 24 and 25 of the Hindu Marriage Act, 1955, which provide for maintenance pendent lite and permanent alimony respectively do not recognize any relationship except that of a legally wedded husband and wife. Besides this Section 125 of the Code of criminal procedure, which provides for grant of maintenance to wife, children, father and mother in a broader perspective, does not recognize persons having illegitimate relationships, entitled to claim maintenance except an illegitimate child. Since 125(4) specifically prohibits a wife living in adultery from claiming any maintenance from the husband under Section 125(1) of the Code of Criminal Procedure. 8

In the case of girl child abuse the mother have to make an application to the court on behalf of her minor daughter. The child can also be added as co-applicant. Complain can be made to various places and persons like police station, protection officer, NGO and the Magistrate. Abused person has the right to file a complaint under Section 498A IPC.

There are other criminal laws also in favour of women. The Dowry Prohibition Act of 1961 is another act in this context. Physical and mental harassment of woman for dowry is a crime under Section 498A of IPC. The Dowry Prohibition law states that practice of dowry is illegal which entails that if someone gives, accepts or even asks for dowry they are liable to punishment and imprisonment for six month or fined upto 5000 rupees. Section 114B of the Indian Evidence Act entails that there is strong relation of husband and relatives of the victim women who commits suicide due to demand and torture for dowry and perpetrators are truly subjected to strict punishment.

**Conclusion:** - In the conclusion we can say that ethics is completely opposed to any kind of abuse of human beings. But morality is different from legal system. Though we have discussed about various criminal laws which are written in Indian Constitution to fight with this evil but penal laws are different from moral imperatives to apply and follow them in every human's life. Ethics always considers every human being with equal value and any kind of discrimination and humiliation is ethically serious matter of criticism. But at the end the role of humanity and morality is very important in building relation between law and ethics. At first we have to know the difference between ethics and law. Law is all about what a person must do and ethics is what a person should do. The problem lies between difference of obligation and freedom of choices. Ethics is always subjective and it always relies on an individual's moral responsibility and conscience. The main point is human beings are bound to follow law to avoid punishment or penalty but only self

obligation to follow good moral conduct which benefits other human beings and build a good society can be termed as ethical.

The act of domestic violence is a case where a perpetrator denies others humanly value and completely ignores ethical norms and behavioural goodness which helps every human to prosper in their own way. In the case of domestic violence intrinsic value of the victim is ignored and urge for material gain (such as demand of dowry), acts as fuel behind such barbaric act by focusing on only extrinsic need of the perpetrator.

So first thing we have to do is make an awareness campaign to every class of women about their rights and existing laws and their uses. On the other hand men have to be brought up in society more sensitively so that they can understand the value every woman. Not only various law can change the scenario of present society. Only an ethical consideration of every human being's self value can change the position of women in our society. Only a sensitive mind can build a good society which is equal for all. Morality can only build humanity.

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