

CHAPTER - 1

INTRODUCTION

➤ **Introduction**

“Silence is violence”

Domestic violence is a universal phenomenon and one of the most pernicious methods adopted by patriarchal society system to keep women subordinated. Incidences of domestic violence have been reported since time immemorial. It is not confined to any one region or society. Nevertheless, it is recently been recognized as such, and attempts to conceptualize it as well as analyze its causes and types have been few. Domestic violence in a way is a social problem where in large majority of cases always the female members of society are the victims. Many other social problems are also having their relation with domestic violence. The women have to face or experience one or other kind of violence at the hands of the male members of the family. This social problem is particularly true in patriarchal societies where the male members, enjoy superior status as compared to women members in the family and is endowed with authority and power which he uses at his will and discretions. Women in most of the cases are deprived of control their rightful place in society and are reduced to subordinate status. They are deprived of all the privileges, powers, exercised by their counterpart or male member in society. Domestic violence remains invisible because whatever is happening within the four walls of a house is regarded as ‘**private matter**’. Any interference in this matter is considered as a bad manner. The issue of domestic violence emerged as a result of women’s movements. Women across the world irrespective of age, class and socio-economic status face violence of all kinds. Incidents of physical violence on women from slapping to various other atrocities go unnoticed and its high time women must raise voice against it. Domestic violence in its fullest sense describes a wide range of acts, which may include physical, sexual, psychological, emotional and financial abuse that one person in an intimate or family relationship uses to control the other. Domestic violence may occur in different relationships. There are more chances of some individuals becoming victims due to different family backgrounds or structures. Domestic violence and abuse are used for one purpose only to gain and also maintain total control over the other especially wife. An abuser doesn’t “play fair”. Abusers use fear, guilt, shame, and intimidation to wear the woman down and keep her under his thumb. Husbands may also threaten to hurt his wife or hurt those around her.

Domestic violence is a common phenomena in society that despite the widespread prevalence, is not customarily acknowledged and has remained invisible as a problem, thought unworthy of legal or political attention from the side of sufferers. They don't feel to create a ripple in the society through raising their voices. The social structure of the separation between public and private life in Indian families, overpowers the hidden nature of domestic violence against women. Legal jurisprudence has historically considered the domain of the house to be within the control and unquestionable authority of the male head of the family. Thus, acts of violence against women are perceived as discipline, essential for maintaining the rule of authority within the family. Domestic violence assumes various forms and degree. The nature of domestic violence varies from place to place, time to time, culture to culture and region to region. Violence against women is not a new phenomenon. Women have to bear the brunt 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 violent attacks i.e. foeticide, infanticide, medical negligence, 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.

Violence against women takes many forms. Far too frequently, women are the objects of violent acts by men. More often than not, they are beaten or harassed or confined or

threatened by men they know, often in their own homes. Women in other places are sexually assaulted and raped even by police officers or doctors in whose charge they are supposed to be 'safe'; some experience the violence of a stranger. In each case and in all situations, violence against women whether it is rape, causing damage in some other way, battering, harassment for dowry, forced confinement or threatening to do harm is crime, punishable by law. Now-a-days domestic violence is the much talked about topic; we now hear it on radio, television. There are legal protections against it, but at times their services are unavailable. This is a marked contrast about the issue, that women experiencing violence in the home are unable to get help on time and actually in need no one to turns up for help.

➤ **Meaning and definition of domestic violence**

Definition of domestic violence can be broad or focused or it can be amorphous or targeted. Domestic violence can be defined as an extreme complex and vicious form of abuse, committed most often within the four walls of the family or house and or within a particular deep-rooted power dynamic and socio-economic structure, which do not allow even the acknowledgement or recognition of this abusive behavior. Meaning and detection of domestic violence itself is the most challenging task. Domestic violence implies the misuse of power by husband or in-laws in a relationship to control another. It is a misuse of power. The abuser tortures and controls the victim by calculated threats, intimidation and physical violence. Domestic violence is not just an occasional argument, fighting, or hitting only but it includes beatings, threats and stalking or other forms of intimidation, harassment, neglect, and physical, emotional, mental or psychological and sexual abuse. It can be both verbal and through action also. Generally, it involves physical brutality. Domestic violence includes physical violence such as battering, intimate violence which includes beating with hands or objects, biting, spitting, pulling hair, punching, kicking, slashing, stabbing, strangling, burning, attempt to drowning, and the actual use of weapons. Many studies shows that domestic violence is normal and is very often inflicted through means such as slapping done in everyday life which with span of time gets get transformed into a weapon of brutality. Weapons are like metal plate, glass, bottle, shoe, stick, knife, guns, belts, bats, hockey stick etc.

'Violence against women' is a manifestation of historically unequal power distributions between male and female. Violence against women is present in every culture, class, education, income, ethnicity and age. Women are always denied of their rights, equality,

security, dignity and self worth. Domestic violence occurs when there is 'Domestic Relationship'. 'Domestic Relationship' is important in every one's life but when it converts into Domestic violence it is destructive.

'Domestic' means related to a home or family affairs or relations. 'Violence' means any action which is experienced by partner as intimidating or during fear and having the effect of your partner limiting what they say or do. Domestic violence in most cases affects and destroys the women's life. Domestic violence also means the result in physical, psychological or sexual sufferings. It also means that when a family member or person uses violent and abusive language or behaviour which controls the other person of the family or household. Domestic violence is mainly done by males or men on women. Domestic violence against women also varies through age like:

1. Pre-birth: sex selective abortion
2. Girlhood: Female genital abuse, incest, child marriage
3. Adult hood : Acid throwing and date rape (dating and courtship)
4. Psychological abuse
5. Forced pregnancy etc.

Domestic violence against women appears to be a global epidemic that affects them physically, psychologically, sexually and economically. There is an unequal power relation in men and women which has led to discrimination against women by men. What amounts to domestic violence against women is a tricky issue. Domestic Violence undoubtedly a human right issue where it is very important to know what actually leads to this heinous act.

The most common causes for women exploitation are related to stalking and battering, it even includes demanding more dowry, discrimination of women, alienation of women's self acquired property fraudulently, torture by husband and in-laws, 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 trafficking, rape, sodomy and all other inhumane 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 understanding between the couple as well as in the family. Domestic violence, or **Intimate Partner Violence (IPV)** as it is sometimes called, is a worldwide problem. Cultural and household stress contribute to the prevalence of domestic violence, but it also has been argued that routine screening for warning signs of domestic violence can be detected by health professionals in some or the other way. It is seen at times that legislation (along with feasible mechanisms these factors need to be thoroughly addressed through such channels as the institutionalization for enforcement), and support and empowerment stemming from women's groups lead to misuse of these signs also.

➤ **The Concept of Domestic violence against women**

Domestic violence is regarded as violence between adults who are or have been in an intimate or family relationship with each other, most often a sexual relationship between a woman and a man. The evidence and the experience of most of us point to the fact that, overwhelmingly, the sufferers of the violence are women and the perpetrators are men. Domestic violence against women by men is 'caused' by the **misuse of power** and control within a context of **male privilege**. Male privilege operates on an individual and societal level to maintain a situation of male dominance, where men have power over women and children. Perpetrators of domestic violence choose to behave abusively to get what they want and gain control. Their behavior often originates from a sense of entitlement which is often supported by sexist, racist, homophobic and other discriminatory attitudes. In this way, domestic violence by men against women can be seen as a **consequence of the inequalities** between men and women, rooted in **patriarchal traditions** that encourage men to believe they are entitled to power and control over their partners.

Domestic violence is **learned intentional behavior** rather than the consequence of stress, individual pathology, substance use or a 'dysfunctional' relationship. Perpetrators of domestic violence frequently **avoid taking responsibility** for their behavior, by **blaming** their violence on someone or something else, denying it took place at all or minimizing their behavior. Whilst responsibility for the actual violence is the perpetrators alone, there are **belief systems in our society** that perpetuate abusive attitudes and make it difficult for women and children to get help. These include: *Blaming* the victim for the violence, *Putting* the 'family' before the safety of women and children, *Tolerating* the use of violence, *Privileging* men over women and children's needs, *Treating* domestic violence as a private matter.

Research on domestic violence indicates that violent men are most likely to perpetrate violence in response to their own **sexual jealousy** and possessiveness; their demands for domestic services; and in order to **demonstrate male authority**. Some men also believe that sex is another type of domestic service that they can demand. Violent men will also typically justify or ignore their behavior by minimizing the violence e.g., saying it was "just a slap" or "isn't that bad". The above mentioned words are used in support in justifying the behavior to themselves and blaming the victim, denying the violence happened or refusing to talk about it and expecting the victim to just be silent.

Domestic violence is about gaining control, **not a lack of control**. If an abuser is careful about when, where and to whom they are abusive, then they are showing sufficient awareness and knowledge about their actions to indicate they are not 'out of control'; their actions indicate they are **making choices** about their behavior. Abusers use violence and tactics of coercion as a way of exercising control and getting what they want. Vast majority of people with mental health problems do not abuse other people. However, there are a **small number of people** who are in mental distress who may behave abusively, though this may not be caused by the mental health problem itself.

If an abuser is random and unpredictable, being **abusive to strangers** as well as people they know (e.g. in public and in the workplace), then mental illness may be a possibility. Even if this is the case, it still doesn't mean anyone must put up with abusive behavior. In these situations, it is important that the **safety of survivors** is prioritized and that the person experiencing mental distress obtains the professional care they need. Mental health issues are more likely to result from domestic violence than to cause it. Women who have experienced domestic violence have higher rates of mental illness: 64% experience post-traumatic stress disorder, 48% have depression, and 18% attempt or commit suicide.

Domestic violence against women in one form or the other is found to be quite widespread. In India where almost half of the population is women, they have always been ill-treated and deprived of their right to freedom and personal liberty as provided under the constitution of India. Women are always considered as a physically and emotionally weaker person than the males, however 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. In their study of "*Severely violent couples*", Neil Jacobson and John Guttman conclude that the *frequency* of violent acts is not as crucial as the impact of the violence and its function, when trying to understand spousal abuse; specifically, they state that the purpose of domestic violence is typically to control and intimidate, rather than just to injure. Women have attempted to resist domestic violence by all sorts of means, wherever they have been able to. There has been a social movement of women against domestic violence for many years. Violence and women are both related.

During the course of study it was frequently heard by the respondents that "Patni ka kaam mar khana hai aur pati parmeshwar hai" It means the women are trained like this in our Indian society that husband is your lord; he has full right over the women and her body. Husband is the ruler of the family and she should keep him happy and obey all his commands. There are many ways in which women suffer, and are made to suffer. In behavioral term violence against women ranges from simple suppression to abuse, aggression, exploitation and severe oppression. Domestic violence is one of them.

Domestic violence against women in the context of marriage becomes more significant when a husband who is supposed to love and protect his wife beats her. For a woman being beaten up by a man whom she loved, cared and trusted most becomes a shattering experience. The violence also ranges from slaps and kicks to broken bones, torture, and attempted murder and even murder. The violence is related to many factors or in other words there are many causes of domestic violence.

➤ **Gender**

Gender-based violence is a universal phenomenon; the causes of gender-based violence are many and varied depending on the types of violence. Traditional attitudes towards women around the world help perpetuate the violence. Stereotypical roles in which women are seen

as subordinate to men constrain a woman's ability to exercise choices that would enable her end the abuse. Financial insecurity is another cause of gender-based violence because if a man cannot establish his authority intellectually or economically, he would tend to do so physically. Another cause is the image created by the society which portrays a man to be viewed as being strong, educated, creative, and clever while a woman is the opposite of all these traits. The way parents bring up their children, which create disparity between boys and girls, also is a source of gender-based violence in later life. Violence against women is deeply rooted in the way society is set up- cultural beliefs, power relations, economic power imbalances and the masculine idea of male dominance. The effect of Gender-based violence can be devastating and long lasting. They pose danger to a woman's reproductive health and can scar a survivor psychological, cognitively and interpersonally. A woman who experiences domestic violence and lives in an abusive relationship with her partner may be forced to become pregnant or have an abortion against her will, or her partner may intentionally expose her to sexually transmitted infection. Violence against women is a continuum of acts that violate women's basic human rights. It includes physical, psychological and sexual harm or threats thereof, and it may be perpetrated within families, within communities or groups.

Since it occurs in all societies of the world, within the home or in the community and it affects women and girls so it can be said as a harmful epidemic for women. Gender is socially and culturally constructed term which differentiates between men and women. However, the term gender has since become extended to refer not only to individual identity and personality but also at symbolic level to cultural ideals and stereotypes of Masculinity and Femininity and at the structural level to the sexual division of labour. Gender-based violence remains significant problem in India with one in three ever-partnered women experiencing men's sexual or physical domestic violence at some stages in their lifetime. Some gender-based violence is like rape, commercial sexual exploitation, domestic violence, female genital mutilation etc. The World we live in is characterized with violence against women. This is universally present in many different ways for example wife battering, sexual assault and abuse, female infanticide, rape etc. Gender-based violence is the fate of millions of women all over the world. There are different types of gender-based violence, which is occurring in society at different levels like within the family, community and state. Domestic violence has been reported since time immemorial so we cannot say that gender-based violence is something new in Indian society or other societies. Domestic violence is typically

occurs when a man beats his female partner which is the most prevalent form of gender-based violence and this occurs only within the families and inside the homes. It is universal phenomenon and it occurs in all societies regardless of income, class and culture.

Gender-based violence is defined any form of violence that results in physical, sexual, or psychological harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Women are vulnerable to this violence at all stages of life. They are subjected to female infanticide, marital-rape, partner violence, psychological abuse, sexual harassment and harmful traditional practices such as forced marriage. There are three levels of gender-based violence, namely *home or family level*, the *community level* and the *state level*. Psychological abuse always accompanies physical abuse and majority of women abused by their partners are abused many times. Physical, sexual and psychological violence against women in the family consist of battering, sexual, female genital mutilation and other traditional practice shameful to women and girls, marital rape, dowry- related violence, incest, non-spousal violence like a son's violence against his mother and violence related to exploitation and deprivation of freedom. Violence against women within the general community include battering, rape, sexual assault, sexual harassment and intimidation in school or at work, forced treatments and the exploitation and commercialization of women's bodies which is related to increased poverty that is mainly a result of unbridled economic liberalism. These types of violence occurring within the general community also include contraceptives imposed on women by constraints or force, forced sterilization or abortion of female fetuses and female infanticide.

Violence against women perpetrated by the state is like physical, sexual and psychological violence are too often or tolerated by states in the name of custom or traditions. In some countries, the rise of religious fundamentalism is extremely disturbing as regards women's right to their economic autonomy and their freedom of choice. The social exclusion of women is so great that it constitutes a new form of apartheid. Women are considered second class beings, of lesser value, deprived of their fundamental rights. Violence against women is also exercised as a weapon of war in situations of armed conflicts. It has many forms including murder, rape, sexual slavery, hostage taking and forced pregnancy, violations of human rights and fundamental rights.

Gender-based violence is not something new and unusual. It is present in all the societies and cultures. Violence against women and girls must be discouraged and dealt through situational analysis, including a gendered power analysis or specific socio-economic circumstances of men and women to understand the specific factors affecting violence against women. If we want to bring change in society then we have to change the mind set of our people. At present the mind set of people is determined by dominant culture of our society which prescribes different values for man and woman. Traditionally, a woman has been projected as subordinate and inferior to man and this type of prescription is legitimizing by customs, rituals, traditions, patriarchal values, religion etc. However, rationally and logically speaking there is no justifiable or logical argument which differentiates man and woman as one superior and other inferior. Law alone cannot change this age old problem of gender-biasness which gave differential treatment to man and woman on very vague and unconvincing arguments. The whole issue of gender violence can be effectively addressed and handled when we adopt a multi-dimensional approach like promoting women education, making women economically self-reliant, condemning those traditional values which treat women inferior to men, condemning patriarchal values in acting laws, safeguarding the interest of women and giving them equal treatment with men etc. However, the most important measure which perhaps could play an important role with regard to discouraging domestic violence could be to change the attitudes of people, changing the mind set of people and changing the approach and orientation of people with regard to gender problems and issues.

➤ **Changing Concept of Domestic Violence**

Domestic violence against women is indifferent biological and psychological forms, has remained in practice, since thousands of years in India. The root cause of this phenomenon lies in the complete subordinate and dependence of women on men in the male-dominated society. In the patriarchal family system, under the Hindu Law, the husband has full right to punish his wife, if she was not behaving according to the social norms, favoring male counterparts, and even according to his own whims and fancies. There are so many changes in society. People claim that they have become modern and adopted modern culture but still when it comes to women they still remain old fashioned or have traditional attitudes and are conservative in their behavior.

The concept of domestic violence has changed now. There are new concepts of domestic violence like emotional violence, economic violence; sexual violence. Emotional violence has been gaining more and more recognition in recent years as an incredibly common form of domestic violence and therefore human rights are at threat within the homes throughout India. Psychological abuse can erode a woman's sense of self-worth and can be incredibly harmful to overall mental and physical wellbeing. Emotional/psychological abuse can include harassment; threats; verbal abuse such as name-calling, degradation and blaming; stalking; and isolation. Women who experience domestic violence overwhelmingly tends to have greater overall emotional distress, as well as disturbingly high occurrences of suicidal thoughts and attempts.

Due to the contacts and influences of western societies, the process of change started. Consequently, we have adopted the modern lifestyle to a great extent, started using even the airplanes for transportation, telephones for communication and television for entertainment purposes, but our thoughts, religious beliefs, traditions, customs, etc. have not changed much. Therefore, women going out for education and employment are further exposed to violence outside the house leaving aside the double burden of work and tension of role conflicts. But still the suffering of domestic violence is found in educated women also. So domestic violence is the same but it has changed its concept and form.

➤ **Magnitude and Forms of Domestic Violence**

The constraint in comparing the prevalence of domestic violence estimates within and across settings partly due to differences in the study methods. The inconsistency in the way violence is conceptualized, measured and reported, is a connecting part of the present study which shows that the domestic violence is pervasive phenomenon. Most of the victims of physical aggression are subjected to multiple acts of violence over extended periods of time. Physical violence in intimate relationships is often accompanied by psychological abuse. In majority of cases, in present research, relating to sexual violence accounts to significant number of deaths among women. In India marriage continues to be universally regarded as essential for a girl, irrespective of class, caste, religion and ethnicity. Control of her sexuality and its safe transference into the hands of the husband is of primary importance. Concern over the conduct of the sexually vulnerable girl is an important cause of early marriage. According to the present study it was found that about 30 percent of women in the ages of 15-19 were married but their parents hide their age as the official age for marriage is 18 for girls,

it is possible that a large percentage of these marriages were of underage girls though the age at marriage is rising gradually. The persistence of a dominant family ideology which believes in a strict sexual division of labor and an age and gender hierarchy means that young wives have to invest a considerable amount of time and energy in forming new relationships, not all of which are caring or accommodative. These are to take precedence over all other relationships in the natal home. In Indian society there is a tendency to club the most marital violence under the overall heads of dowry or dowry related violence. Dowry is one of the major causes for violence but not in all the cases if we talk about domestic violence. Dowry is just like social cancer, a cruel custom and an insult to the dignity of women. It has been crystallized in our society and despite legislation, cases of dowry harassment and dowry deaths are increasing every year.

➤ **Domestic violence act (the protection of women from domestic violence act 2005)**

The bill for protection from Domestic Violence is called as “Domestic Violence Bill 2001”. Domestic violence is one of the major social problem of India and instead of decreasing, it is increasing day by day. Now the question arises that how we can say that it is increasing day by day; so the answer is the necessity of domestic violence act which came in 2005. Domestic violence is undoubtedly a human rights issue and serious deterrent to development. The *Vienna Accord of 1994* and the *Beijing Declaration* and the *Platform for Action 1995* have acknowledged this. The United Nations Committee on Convention on Elimination of All Forms of Discrimination against Women [CEDAW] in its General Recommendation No.XII [1989] has recommended that State Parties should act to protect women against violence of any kind especially that occurring within the family. The phenomenon of domestic violence is widely prevalent but has remained largely invisible in the public domain. Presently, where a woman is subjected to cruelty by her husband or his relatives, it is an offence under section 498-A of the Indian Penal Code. The civil law does not address this phenomenon in its entirety. It is therefore, proposed to enact a law keeping in view the rights guaranteed under Articles 14, 15 and 21 of the Indian Constitution to provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society.

The new legislation in addition to the existing criminal laws would empower courts to grant protection orders to the victims of domestic violence and provides relief. It also includes the

right to reside in a shared household and the right to protection orders including monetary relief and custody of children. It supports setting family dispute arising out of domestic violence and assisting the woman to file an application in the court of the magistrate if requested by her. Some of the laws with regard to domestic violence are as following:

✚ Section 304-B of the IPC [Indian Penal Code] reads:

- ❖ Dowry Death: The death of a woman caused by any burns or bodily injury or occurs otherwise than normal situations or circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or relatives for, or in connection with any demand for dowry, such death shall be called 'dowry death' and such husband/relatives shall be deemed to have caused her death.

✚ Section 376A of IPC [Indian Penal Code] reads:

- ❖ Intercourse by a man with his wife during separation: Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent shall be punished with imprisonment or either description for a jail term, which may extend to two years and shall also be liable to fine.

✚ Section 498A:

- ❖ Inserted by criminal Law [2nd Amendment] Act 1983, Act 46 of 1983.
- ❖ The section came into effect on 25 December 1983. It reads as under:

Husband or relative of husband subjecting her to cruelty whoever being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term, which may extend to three years and shall also be liable to fine.

Section 113A reads as under: 113A Presumption as to abetment of suicide by married woman

When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband has subjected her to cruelty the court will presume having regard to all the circumstances of the case, that a suicide had been abetted by her husband or by such relative of her husband.