

Domestic Violence

Domestic Violence, like at any other time, was prevalent during the British time also. This accompanied by customs like sati, purdah and jauhar led to women being oppressed a lot and having nowhere to go and complain. Although people like Mahatma Gandhi, Raja Rammohan Roy (who helped abolish sati) tried a lot to uplift women, but the domestic violence was still unchanged. But this period could be said to be a building step for the movements after independence. The other two very important provisions that were introduced in 1983 and 1986 were the Section 498A and 304B in the Indian Penal Code.

“Section 498-A - Husband or relative of husband of a woman 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.

Explanation – For the purpose of this Section, ‘cruelty’ means: -

a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health, (whether mental or physical) of the woman; or

b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security is account or failure by her or any person related to her to meet such demand.

Section 304 B- Dowry death- (1) where the death of a women is caused by any burns or bodily injury or occurs otherwise than under normal 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 any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.”

Explanation:-For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

This section was a necessary law to punish the people involved in this crime. This much needed law to give justice to the girls who were killed by greedy in-laws punished the in-laws if the girl was killed within 7 years of the marriage, if she died under suspicious circumstances, burns etc.

Although bride burning is common in India, even if any girl dies after marriage due to any other reasons, the in-laws are immediately booked and arrested under 498A and 304B. As these were criminal laws to prevent crime, the immediate needs of women were overlooked and there was an immediate need for a civil law. "There was no law in place enabling judges to give protection orders and injunctions restraining violence against women or to give any monetary relief in cases where women go to court complaining against violence. All remedial measure were part and parcel of family law, or more particularly the law of divorce. Violence was not seen as a wrong, in and of itself, but as a fall-out of marriage and family life. There was no unambiguous policy of elimination of violence against women as a national goal, to be achieved through law". All these considerations made it imperative to conceptualize a law on domestic violence that would be a combination of both civil and criminal law elements. A civil law that would, on the one hand, restrain the abuser from committing violence, and on the other, provide for the other needs of the woman faced with violence. At the same time, punitive provisions would ensure the enforcement of the orders of the courts.

The Protection Of Women From Domestic Violence Act, 2005 The bill was passed by the NDA government in 2002 in the Lok Sabha and The Protection of Women from Domestic Violence Act came into being on 13th September, 2005. This Act, with 37 Sections and 5 chapters, was lauded as an essential change in the kind of legal protection provided to women by the law. The act showcases that changing trends in the society are not left unnoticed by the government and recognizes the relationships 'in the nature of marriage'. This was the much needed change in the Act because before this, there was no provision anywhere to check the out-of-marriage acts of domestic violence which formed a large part of the domestic violence industry. Safeguarding women's right to safety in a relationship, be it in a married or share household. The provision relating to the Right to Residence (under Section 17) is one of the most important provisions of the act. Under Section 19, a magistrate can also direct the respondent to remove himself from the shared household, secure a same

level of accommodation for the complainant, restrain the respondent or his relatives from entering certain portions of the house and can direct the respondent to not alienate or dispose-off of the shared household. The other important feature of the act is the provision for a Protection Officer. In India, women generally stay away from the police and the courts, owing to their own families not encouraging them to raise their voices against their in-laws. For the act to be successful, a Protection Officer is provided so as to aid the victim with legal procedures and support, including medical assistance and counseling. The aggrieved person can complain to the Protection Officer in event of further incidences after which the PO prepares a Domestic Incident Report on the basis of which necessary action is taken. Protection Orders are granted under Section 18 of the Act, which can direct the respondents from not committing any further acts of violence against the complainant or entering into premises where the complainant resides or works. Under the Act, domestic violence includes verbal, emotional, sexual, economic and physical abuse and compensation is provided for all kinds of violence. Custody of the children and ex-parte and interim orders can also be granted to the aggrieved person. Further, the respondent can be directed to give back the 'Sri-dhan' (Dowry) items of the complainant under Section 19 of the act, which has proved to be extremely relevant due to the still prevalent practice of giving dowry in India. The varying causes which can spark the violence within the four walls of homes need to be analyzed carefully and a wise study of the factors causing the violence may prevent a family to suffer from the menace of domestic violence. The domestic violence may have a wider and deeper impact in life of the victims. A proper societal-legal environment has to be built to make the houses safe and secure for the woman. India cannot prosper by keeping half of its population under duress.