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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

DOMESTIC VIOLENCE IN INDIA- THE DIFFERENCE BETWEEN STATISTIC AND THE REAL PICTURE.

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ABSTRACT

Domestic abuse is sadly, a rife a part of our society. We need to know the consequences this abuse has on all individuals concerned. Many police officers were called upon on an everyday to cope with domestic issues. Often, we find abuse. It can be greatly useful to any officer to possess a higher understanding of the aspects of domestic abuse. The more knowledgeable the officer is about a scenario, the better he or she will handle the case. The goal of this paper is to help in understanding some of the aspects in domestic violence. I will touch on the history, effects, statistics, laws and provisions, international norms and finally conclusion and potential solutions. law enforcement officials cannot stop domestic abuse alone. we all have a duty, as we a serious part in reducing the number of pains, which future victims might get to endure. We should be ready domestic violence, social and legal conception that, in the broadest sense, refers to any abuse—including physical, emotional, sexual, or financial—between intimate partners, usually living in the same house. The term is used specifically to designate physical assaults upon ladies by their male partners, but, although rarer, the victim may be a male abused by his female partner, and the term may also be used concerning abuse of both women and men by same-sex partners. Domestic violence is willful intimidation, physical assault, battery, regulatory offense, and/or alternative abusive behavior as a neighborhood of a scientific pattern of power and management perpetrated by one Intimate partner against another. It includes physical violence, sexual violence, threats, and emotional abuse.

INTRODUCTION

DEFINITION AND OF DOMESTIC VIOLENCE

The frequency and severity of violence can vary dramatically. Definitions of domestic violence are often broad or centered, amorphous or targeted. The definition of violence is very important as a result of it shapes the response. For instance, a community response, whether it be legal reform or the provision of support services, is formed by a specific understanding of what constitutes domestic violence and whether it is to be conceptualized as an intra-family conflict, or a criminal violation of rights.

The definition implicit by the law is particularly crucial because it defines standards and therefore impacts broader social perceptions of the matter. Elements of the definition that need to be thought of then are the boundaries of the connection between the culprit and also the abused, the norms of acceptable behavior, and the specific acts that constitute violence. A frequent perception of domestic violence against women is that it is limited to physical damage perpetrated on adult women among a marital relationship. While this understanding might capture an outsized universe of the expertise of women, it is predicated on the assumption that women primarily board nuclear families. Across cultures, there are a variety of living arrangements starting from joint families to nuclear families to single parent families. Moreover, women may be in a longtime relationship or in the process of separation or divorce. Violence is usually not restricted to the present husband; however, it might extend to boyfriends, former husbands, and different members of the family such as parents, siblings, and in-laws. A definition that acknowledges these multiple possibilities would cause interventions that are additional inclusive of the experiences of all women.

Definitions of domestic violence rest upon not solely the nature of the relationship between the offender and {also the} victim but also upon norms of acceptable behavior. There is appreciable difference of opinion relating to which behaviors or manifestations should be thought of violent, also because the level of intensity and frequency needed to label a relationship as violent. Another contentious issue is the way to evaluate the intent of the act, why the act was initiated, and whose read ought to determine this. For example, Indian field experience indicates that of women numbers of ladies don't understand acts as violence if they understand them to be even.

The social construct encompassing the perfect “good woman” clearly sets the bounds for acceptable norms on the far side which verbal and physical assaults translate into a notion of violence. Thus, spouse beating isn't seen as an excessive reaction if the girl offers cause for jealousy or doesn't perform her “wifely” duties adequately, like having meals prepared on time or adequately caring for children. This is often any sophisticated by a typical belief that violent acts are an expression of love and simply a desire to assist the subject be a “better” person. The core of a definition of domestic violence consists of all the acts that constitute violence.

Some definitions are narrow and concentrate on a specific act of violence and others are broader and incorporate the total range of acts. In India, public discourse and also the media equate domestic violence with dowry violence. This incomplete representation undermines awareness of the widespread, daily psychological, physical, and sexual abuse women confront that is usually unrelated to dowry. As a result, newspapers may fail to report the less sensational stories that don't involve bride-burning and unnatural death. Indian legislation on marital violence perpetuates this narrow definition. As an example, both Section 498A of the Indian penal code¹ and the Dowry Prohibition Act² emphasize violence among the context of dowry harassment. However, informal discussions with women by researchers and activists have underlined the requirement for greater study of other factors and characteristics associated with abuse.

A further crucial component in the definition of violence is whether it is framed as a solely social act or seen more broadly speaking as an expression of power that perpetuates the subordination of women. If it is the former, the definition would only include those acts which might be seen as crimes and thus focus only on acts which lead to physical evidence. If it is the latter, the definition of violence would include all acts of “physical, verbal, visual or sex offense that are experienced by women or girls as threats, invasion or assaults which have the impact of injuring her or degrading her and/or taking away her ability to control contact (intimate or otherwise) with another individual”.

¹ Section 498A The Indian penal code 1860.

² Dowry Prohibition Act, 1961.

Here the questions arises as,

1. What is the difference between statistics and the real picture of domestic violence?
2. What are all international norms relating to domestic violence?
3. Is there any UNO, UDHR, ILO, etc. rights are being violated?
4. The overview of constitutional provisions and acts which are related to domestic abuse and women protection.

STATISTICS AND THE REAL PICTURE:

STATISTICAL DATA CONCERNING DOMESTICAL ABUSE

According to data discharged by the Federal Bureau of Investigation in Crime within the us 1999, males dead 89 of feminine murder victims. In 32nd of these murders, the suspect was the husband or swain. In distinction, a spouse or girlfriend dead 3% of male victims dead. The report conjointly reflects that on Bastille Day of all murder victims, the victim was associated with the suspect. Page thirty of Violence Against ladies showed that force was the leading explanation for injury to ladies within the Domestic Abuse four us. It conjointly explicit that the Federal Bureau of Investigation calculable that one girl within the us is crushed every eighteen seconds. It's calculable that between a pair of 6,000 and 4,000 ladies can die every year from abuse.

The web site Worldwide Web.famvi.com was dedicated to producing data concerning family violence. It reported that 22-35% of ladies World Health Organization visit emergency rooms square measure there for injuries associated with in progress domestic abuse. The report conjointly explicit that a minimum of 3-5 million bucks was exhausted every year in domestic abuse connected medical expenses. Businesses were calculable to possess confiscate quite a hundred million bucks in lost wages, sick leave, absence, and non-productivity. It absolutely was calculable that a minimum of twenty fifth of labor issues like absence and turnover rate were associated with domestic abuse.

One distressful truth discovered was that within the 1990's there have been nearly thrice as several animal shelters within the us than there have been shelters for battered ladies. force conjointly deeply affects the kids concerned. in step with the web site simply mentioned, in a very national survey of over 6000 American families, five hundredth of the boys who of times molested their wives conjointly oftentimes abused their kids. ill-usage is fifteen times a lot of doubtless to occur in families wherever

force is gift. Men who have witnessed their parents' domestic violence are three times more doubtless to abuse their own wives than kids on non-violent parents. Sons of the foremost violent parents are one thousand times more seemingly to become spouse beaters. The workplace of Juvenile Justice and Delinquency hindrance, underneath the steering of Janet metropolis, revealed a report, Safe From the beginning, in Gregorian calendar month 2000. It reported that being abused or neglected as a baby enhanced the chance of arrest as a juvenile by 53 and of arrest for a violent crime as an adult by thirty-eight. It conjointly reported that Domestic Abuse 5 approximately 2 million adolescents, age 12-17, seem to possess suffered from posttraumatic stress disorder. This presumptively stemmed from exposure to violent experiences in their past. way more kids square measure severely skinned by family violence within the home than all told acts of violence elsewhere, together with faculty grounds.

In 1997, 76% of the fatalities from abuse were kids underneath the age of four. ill-usage was the leading explanation for death of children underneath the age of one. Finally, statistics announce within the Arkansas Crime data Center publication Crime in Arkansas 1999, discharged in June 2000, reported that a loved one or swain or girlfriend committed 24-karat gold of murders. Another distressful truth is that in 18.9% of reported rapes, a loved one was the suspect. It conjointly reported that thirty fifth of officers molested in 1999 were on a disturbance decision. These calls have for the most part been contributed to by family violence. These statistics show however severe a control that domestic abuse has on our society.

REALITIES OF VICTIMS AND BENEFICIARIES

Violence against girls may be a violation of basic freedoms and rights, such as the right to liberty and security, as mentioned within the Charter of fundamental Rights of the European Union (EU, 2000)³. Violence against women can be domestic also as public, physical, emotional or mental. women be afraid of violence in their mind that causes the dearth of participation in various areas of life. Deep impact of the trauma remains in their minds even after post-violence corrective measures and rehabilitation.

³ 'European Union (EU): Charter Of Fundamental Rights Of The European Union' (2001) 40 International Legal Materials.

Proportion wise difference is determined; however, the cases of violence are found across the geographical areas and within the high and low prevalence area. Similarly, the socio demographic options of the respondents show that the cases of violence are found across the cluster of individuals. There's no difference on the grounds of religion, caste and education. Every age group of women have been facing violence in their life. Most of the cases of violence, it usually happens during the day in which the woman is out of the home, alone for livelihood activities, without no members of the family being around.

Surprisingly in most of the cases the accused are the persons best-known to the victim from the neighborhood or family. Generally, it is assumed that massive threat for women is from unknown person than familiar one, however the very fact is totally opposite. women don't seem to be safe among the people they apprehend well. In today's context, she may be unsafe with dear and near ones. It is determined that in several cases woman goes alone for registering the case and in several instances, they failed to get proper treatment from the concerned police officer. In some cases, victims have received guidance services but in few, they didn't get referred for counseling. Many of them haven't received services like free legal aid and funding. For prevention and control of crime, women ought to be aware of their self-defeating behavior. they need to induce trained for, 'how to identify and defend themselves from the accused', as most of the suspect are in their close network of people. To stop such violence, they must be trained for self-defense. they must be made aware of the provision of services for the victims like guidance, free legal aid, financial benefit for his or her help and support. most significantly the police department and also the concerned officers need to be trained to develop sensitivity so they will traumatize the victim with more compassion and care.

REALITIES FROM POLICE OFFICERS AND POLICE STATIONS

Constitutionally, every crime ought to be reported, and each woman who faced violence of any type should get justice. The trends of reporting influenced by numerous socio-cultural factors, the judicatures and also the perspective of the persons in judicial system at various level.

In India the rate of unreported sexual violence is "far higher" than statistics indicate. Before the new act and provisions, in many states, police responses to violence against women have been typified by inefficient service delivery and underreporting by both police and victims. In the eyes of victims, and

society in general, cops are one among the most sources of help accessible to victims in case of violence.

Their attitude is very important in facilitating a way of safety and comfort to women seeking justice and support for protection. Indeed, police officers' attitudes and responses towards violence send a clear message to victims, offenders, and the wider community. This results in social disapproval and reprobation, or conversely social tolerance toward this sort of violence. Interviews were conducted with the police officers of the different police office in both the high and low prevalence area to grasp the status, their attitude and response towards the issues of violence against women and their proactive nature and initiatives to assist the victim of the violence for extending the justice to her. It is observed that the trend in reporting cases is increasing. People are aware and take a step forward to report the cases. though the police officers are trying to satisfy their duties few of them have less sensitivity towards the victim. There is a necessity of building awareness and sensitivity among the police to traumatize the victim more positively. along with filing first Information Report (FIR) they need to play vital role of a guide and counselor. If they're more sensitive, many victims will be at liberty to come back to the police office to report the case and hidden incidence are available in the light for legal proceeding. Thus, police have a really crucial role in preventing crime and also helping the victim to require a stand for legal proceeding against the accused.

DATA OF COMPLAINTS RECEIVED FROM PASR 20 YEARS:

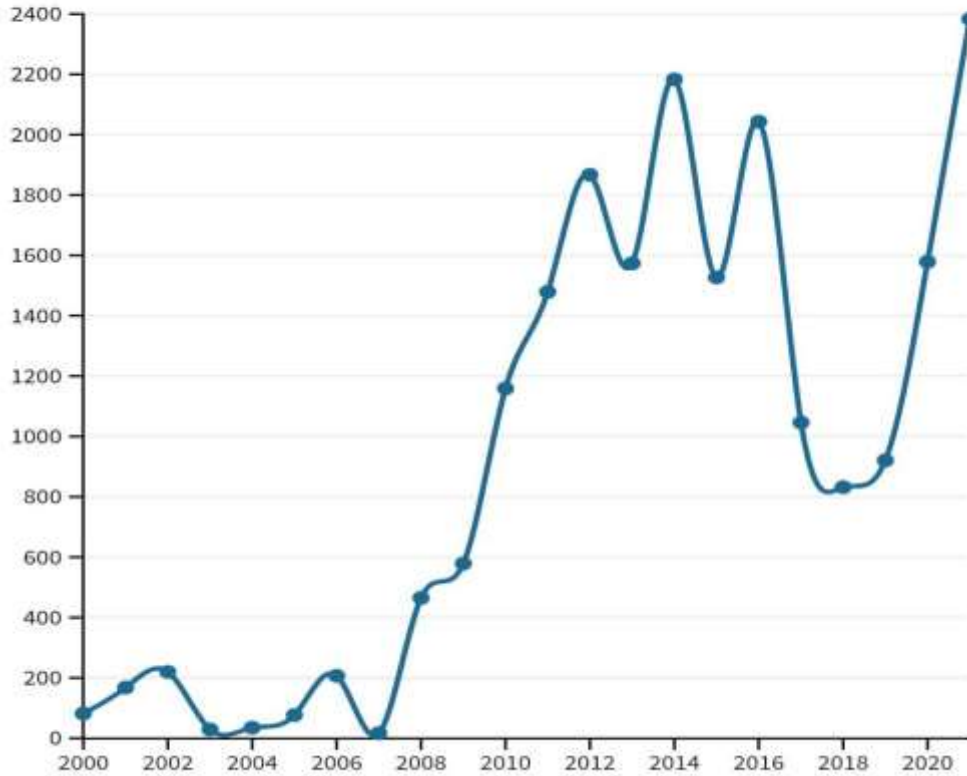
Over 2,300 violence complaints were filed with the National Commission for women⁴ between January and may in 2021, the highest for any year since 2000. Most complaints were received from U.P., whereas the highest complaint rate was recorded in Delhi. However, as per NFHS-5 information, 70th of women in the major States who faced physical violence didn't inform anyone regarding it. Even among people who sought help, very few reached out to the relevant authorities.

⁴ 'National Commission For Women' (Ncw.nic.in) <<http://www.ncw.nic.in/>> accessed 20 December 2021.

21-year high

Between January and May 2021, 2,383 complaints of violence were filed with the National Commission for women.

Domestic violence complaints received in the past 21 years



According to the information given by National Commission for Women (NDW)⁵,

| Year | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|-------------------|------|------|------|------|------|------|------|------|------|------|------|
| no.of Cases filed | 82 | 168 | 220 | 29 | 35 | 77 | 207 | 17 | 465 | 579 | 1159 |

⁵ National Commission for Women and also sourced from the National Family Health Survey 2019-20

| Year | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--------------------|------|------|------|------|------|------|------|------|------|------|------|
| no. of Cases filed | 1479 | 1867 | 1574 | 2183 | 1527 | 2043 | 1046 | 832 | 921 | 1579 | 2383 |

By the above information this present year 2021 got highest from past 21 years I.e., from 2000.

Silent victims

Over 70% of women who experienced physical violence in major States didn't ask for help or tell anyone about it. in the States listed, but 20% women who experienced physical violence sought help.

Women who experienced domestic violence

| State | Never sought help and never told anyone | Never sought help but told someone | Sought help |
|----------------|---|------------------------------------|-------------|
| Andhra Pradesh | 82.8 | 9.6 | 7.7 |
| Bihar | 84.3 | 6.8 | 8.9 |
| Gujarat | 74.7 | 9.9 | 15.4 |
| Karnataka | 70.8 | 12.6 | 16.6 |
| Maharashtra | 78.8 | 7.8 | 13.4 |
| Telangana | 73 | 8.2 | 18.8 |
| West Bengal | 79.7 | 8.5 | 11.9 |

All figures are in %

Small share

Of the 15.4% victims in Gujarat who sought help, none of them reached out to relevant authorities such as doctors, the police, lawyers or social service organizations. Among the tiny share of victims who sought-after help within the States listed, solely a little percent contacted the relevant authorities.

INTERNATIONAL NORMS

Legislative response International:

There are variety of International Instruments to curb violence against women. The United Nations General Assembly resolution supported the imperative need for the universal application of women's rights of equality, security, liberty integrity and dignity. Article 55 and 56 of the United Nations charter⁷ forged a legal obligation on UN organizations to spread and explore respect for equality and human rights.

The Universal Declaration of Human Rights: Article 5⁸, states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. There are three United Nations world conferences on women. One in North American country, Mexico in 1975, the second in Copenhagen in 1980, and also the third one in Nairobi, whereby methods were framed to promote gender equality and opportunities for women. These were stand on three objectives: Equality, development and peace.

The Vienna, capital of Austria Declaration, 1993 entails action to integrate the equal status human rights of women and girls. It stresses toward elimination of violence against women in public and personal life.

The Beijing conference, 1995 provided a platform for concentration on few of the key issues known as fundamental obstacles to the advancement of majority of women in the world. It centered on issues like discrimination against women, violence against women, etc.

⁷ 'United Nations Charter (1945)' (Cirp.org, 2021) <<http://cirp.org/library/ethics/UN-charter/>> accessed 23 December 2021.

⁸ Article 5 in The Universal Declaration of Human Rights.

The Convention on Elimination of all forms of Discrimination against women (CEDAW), 1981⁹, to which 166 countries are unit members, is a landmark document by virtue of it framed violence against women within the framework of human rights. It determined female as primary risk issue for violence and broadened the definition of gender violence (to embody all aspects of women's life). Domestic legal remedies in India.

CONSTITUTIONAL PROVISIONS AND STATUTORIES:

According to our Indian constitution, the article 14 says about equality, difference in treatment between men and women by the state is completely prohibited on grounds of religion race, caste, sex or place of birth. Article 21 is on right to measure; right to live with human dignity.

1. **The National Commission for women:** it had been originated as a statutory body in January 1992 beneath the National Commission for women Act, 1990 to review the constitutional and legal safeguards for women; suggest remedial legislative measures, facilitate redress of grievances and advise the Government on all policy matters affecting women.
2. **The Supreme Court precept on sexual harassment at workplace:** For the first time, the Court elicited upon an international human rights law instrument, the CEDAW to pass a collection of tips. The Court outlined sexual harassment at workplace as any unwelcome gesture, behavior, words or advances that are sexual in nature. "It shall be the duty of the employer or other accountable persons in workplaces or alternative institutions in order to avoid or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual abuse by taking all steps required." The legislation concerning violence against women comprises the Indian penal code (IPC), civil law and special laws.
3. **Dowry and dowry death:** The Dowry Prohibition Act (DPA), 1961¹⁰ applies to all or any individuals people, Hindus, Muslims, Christians, Parsis and Jews. Giving, taking or abetting the giving or taking of dowry is an offence, that is punishable. many states (Bihar, West

⁹ The Convention on Elimination of all forms of Discrimination against women (CEDAW), 1981.

¹⁰ Dowry Prohibition Act, 1961.

Bengal, Orissa, Haryana, Himachal Pradesh, and Punjab) amended the DPA to grant it more teeth. The law was found to fail to stall evil. Where the death of a woman is caused by any burns or bodily injury or are takes place otherwise than beneath normal circumstances, within seven years of marriage, and if shown that quickly 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 of dowry, such death shall be known as “dowry death” and such husband or relative shall be deemed to own caused her death (IPC 304-B)¹¹. 113-B Indian evidence Act, 1872¹², was inserted for the presumption as to dowry death.

4. **Abetment of suicide of children or insane person:** If any person below eighteen years of age, any insane person, any delirious person, any idiot, or any individual during a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or imprisonment for life or imprisonment for a term not surpassing ten years and shall also be liable for fine (305 IPC). However, the issue is that if it is shown the victim has major mental illness and psychopathic issues, the benefit of doubt is given to the accused, and he is not guilty. Abetment of suicide: If any individual commits suicide, whoever abets the commission of such suicide shall be disciplined with imprisonment of either description for a term which can extend to ten years and shall even be liable for fine (306 IPC).¹³ 113-A of Indian evidence Act, 1872¹⁴, relates to the presumption related to abetment instigation of suicide. The offences of dowry and abetment of suicide are cognizable, nonbailable and non compoundable.
5. **Sexual offences:** a man is said to have to own committed rape if he has sexual intercourse with a woman against her will and consent; or with her consent when the man is aware of that he is not her husband or when she thinks that he is her lawful husband; or with her consent when she is of unsound mind or is intoxicated by herself or the person. However, sexual intercourse by a person together with his own wife, the spouse not being below fifteen years, is not rape (375 IPC). The latter provision seems deficient because it does not embody marital

¹¹ 304-B Indian Penal Code 1860.

¹² 113-B Indian evidence Act 1872.

¹³ Indian Penal Code 1860.

¹⁴ 113-A of Indian evidence Act 1872.

rape. Voluntarily having carnal intercourse against the order of nature with any man, woman, or animal is an offence that the person shall be confined forever and shall even be liable for fine. This provision is hardly used (377 IPC).

6. **Of cruelty by husband and relatives of husband:** The willful conduct of the husband or his relative that is probably to drive the women to commit suicide or cause physical or mental trauma to her or harassment of a woman with a view to coercing her or any of her relative to satisfy any unlawful demand for property would be punishable by imprisonment for three years and fine (498A IPC). This can be the foremost widely used provision against domestic violence.

7. **Other offences mentioned in IPC are:**

- causing miscarriage (312 IPC),
- causing miscarriage by not having woman's consent (313 IPC), death caused by an act done with intent to cause miscarriage.
- if act was done without woman's consent (314 IPC),
- act done with intent to restrain child being born alive or to cause it to die after birth (315 IPC) and
- causing death of quick unborn kid by act not amounting to culpable homicide (316 IPC).

8. **The Family Courts Act, 1984:** The Act was established with a view to push conciliation in, and secure speedy settlement of disputes concerning wedding and family affairs.¹⁵

9. **The Indecent representation of women (Prohibition) Act, 1986**¹⁶: This Act prohibits the indecent representation of women through advertisements or in publications, writings, paintings, figures or in the other manner is prohibited.

¹⁵ The family courts Act 1984.

¹⁶ The Indecent representation of women (Prohibition) Act 1986.

10. **The Commission of Sati (prevention) Act, 1987:** This Act is for the avoidance and glorification of sati.¹⁷

11. **Protection of women from domestic violence Act, 2005:** The Protection of women from domestic violence Act (PWDVA), 2005 was enacted to provide for more effective protection of the rights of women guaranteed underneath the constitution who are victims of violence of any kind occurring inside the family and for matters connected to that. It acknowledges four kinds of domestic violence: Physical, verbal, and emotional (including not having a baby or a male child, marrying without consent), and economic (including violence associated with stridhan, dowry, property) and sexual (includes sexual assault and marital rape).¹⁸

The aggrieved person (AP) is a woman who has been in an exceedingly domestic relationship with the respondent. The respondent is any adult male person who is or has been in a domestic relationship with the AP and against whom the AP has wanted relief. The AP or anyone can complain directly (verbal), telephonically or via E-mail. There is provision for varied orders (protection, residence, maintenance (monetary relief), custody orders and emergency help. There is additional provision for assistance (counselor, police, and help for initiating criminal proceedings, shelter home, medical facilities, and legal aid).

The PWDVA is good in many ways. it is friendly to even to poor and illiterate women; it educates the woman relating to the rights and accessible assistance; provides several reliefs (which facilitate psychosocial rehabilitation), free legal advice and facilitate to initiate legal proceedings against respondent; it makes an attempt to revive the family; and last, but not the smallest amount, it empowers the woman. the majority criticism against PWDVA is that mental illness in AP or respondent is unnoticed. with the exception of this, there are mixed reactions toward few legislations, particularly PWDVA, DPA and IPC 498A, because they have been oftentimes abused and are thought of as “anti-men.”

¹⁷ The Commission of Sati (prevention) Act 1987.

¹⁸ Protection of women from domestic violence Act 2005.

CONCLUSION AND SUGGESTIONS

To ensure fairness in sentencing, the enactment of legal provisions regulating judicial discretion is crucial. Additionally, establishing a state-sponsored victim compensation fund, regardless of case outcomes, particularly for heinous crimes such as rape, is essential. Responsible media practices must safeguard victim identities, emphasizing convictions rather than acquittals. Encouraging district-level women's groups to lead programs aiding victims of violence is vital, ensuring NGOs operate autonomously while periodically evaluating their performance. Introducing Rape Crisis Centers akin to those in other countries for medical aid and counseling can immensely benefit victims. Collaborative efforts between governmental and non-governmental entities, education initiatives, and challenging cultural norms are fundamental in combatting gender violence—a complex task that demands sustained, concrete actions for a just society, transcending all boundaries.

METHODOLOGY USED:

As research methodologies are of two types, i.e., doctrinal and non-doctrinal. For this research paper, I have chosen the Doctrinal methodology where it is completely based on the information available from primary sources like gazettes, acts, bill by the ministry etc., and from secondary sources like library, articles, journals etc., It is theoretical.

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