

Domestic Violence

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Dowry Death

Trafficking

Cruelty

Acid Throwing

Harassment

Foeticide

Child Sexual Abuse

Homicide

**Child
Marriage**

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Forced Marriage

Forced Marriage

Honour Killings

Infanticide

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Unsafe Sex

Marital Rape

All over the world,
Women victims speak
the same language -
of silence

Domestic Relationships

- Husband and wife
- Live-in Partners
- Parents and Children
- Relatives
- Adoptive family
- Joint family members

Illustrations of DV

- × Assault
- × Burning
- × Homicide
- × Persistent denial of food
- × Perverse sexual conduct
- × Locking a woman out of the house
- × Confining a woman at home
- × Denying access to her relatives
- × Denying access to children

Illustrations of DV (Contd...)

- × Abusing children in the mother's presence
- × Falsely denying paternity of children
- × Demoralising or putting down a woman
- × Insulting or taunting her for lack of a child or a male child
- × Threatening divorce unless dowry is given
- × Forcing abortion or sterilisation
- × Misconduct affecting the woman directly such as, drunkenness, gambling or crime

Responses to DV

◆ Psychological

- ◆ Trauma
- ◆ Hopelessness
- ◆ Anxiety
- ◆ Fear
- ◆ Anger
- ◆ Insomnia & nightmares
- ◆ Depression
- ◆ Social withdrawal
- ◆ Lower self-esteem
- ◆ Betrayal of trust
- ◆ Self blame
- ◆ Guilt
- ◆ Shame

Responses to DV (Contd...)

◈ Social

- ◈ Isolation

- ◈ Loss of dignity

- ◈ Loss of safety

- ◈ Loss of marriage, home, job, family and social life

Results of DV

☛ Physical

- ☛ From black eye to death
- ☛ Burns
- ☛ Disability
- ☛ Pain
- ☛ Forced pregnancy
- ☛ Miscarriages and abortions
- ☛ HIV
- ☛ Cuts & bruises
- ☛ Failed health

Results of DV (Contd...)

➡ Psychological

- ➡ Failed marriage

➡ Economical

- ➡ Decreased productivity
- ➡ Wages lost
- ➡ Employment at stake due to absenteeism
- ➡ Financial costs
- ➡ Health costs

Responding to DV

- Sanctuary - Preventive
 - Provision of Safety
 - Shelter and refuge against re-victimisation
 - Protection orders
 - Women victim centres in hospitals
 - Forensic examination
 - Crisis counseling
 - Police statement
- Sanctions - punitive
 - Disdain → ostracising → punishment

Responding to DV (Contd...)

- Infrastructure
 - Mandatory arrest
 - Specialised police
 - Women's police stations
 - Women victim centres
 - Special Courts
 - Video recording of investigation
 - Video conferencing of trials
- Sensitivity
 - Training of Police Officers, Medical Officers, Public Prosecutors and Judicial Officers

Definition – UN Model Legislation

- All acts of
 - gender based physical, sexual and psychological abuse
 - by a family member
 - against a woman in the family
 - including
 - Assault
 - Aggravated physical battery
 - Kidnapping
 - Threats
 - Intimidation
 - Coercion

- Stalking
- Humiliation
- Verbal Abuse
- Forcible or unlawful entry
- Arson
- Destruction of property
- Sexual Violence
- Marital Rape
- Dowry or related violence
- Female genital mutilation
- Violence related to exploitation through prostitution
- Violence against household workers

And attempts to commit the above acts

Definition - DV

- ☉ Physical

- ☉ Causing harm or injury

- ☉ Mental

- ☉ Harassment for demand for dowry or property, threats

- ☉ Sexual

- ☉ Abuses, humiliation or degradation of women (includes marital rape)

- ☉ Verbal

- ☉ Including insults, ridicule or humiliation (specially, for not having a child or male child), threats

- ☉ Emotional

- ☉ Economic

- ☉ Deprivation from “Streedhan”, other financial resources, properties
 - ☉ Disposal of property (includes deprivation of money or services)

- ☉ Psychological

- ☉ (e.g. preventing contact with family or friends, threat of removal of children)

Distinction

S.498A IPC

➤ Cruelty

- ⇒ Wilful conduct
 - As to cause injury
 - Danger to life
 - Drive her to suicide
- ⇒ Harassment
 - To meet demand for dowry or property

S.3 DV Act

➤ Violence

- ⇒ Act, omission, commission, conduct
- ⇒ as to constitute physical, mental, sexual, verbal, emotional, economic abuse
- ⇒ Considering overall facts and circumstances

Comparative Legislations

- U.S.A.
 - Violence Against Women Act
 - Victims of Crime Act
- U.K.
 - Domestic Violence Act
 - Matrimonial Causes Act
 - Matrimonial Homes Act
 - Family Law Act
 - Housing Act

Features of DV Act

- Interventionist in approach
- Temporary in character
- Summary in procedure
- Usable for immediate relief
- Recognises relationships, not status
- Considers possession, not ownership

Investigation

- ✧ Video recording of victim statement / dying declaration
- ✧ Photographs of the scene of crime
- ✧ Map of the scene of crime
- ✧ Photographs of victim's injuries
- ✧ Photographs of suspect's injuries, if any
- ✧ Medical report of injuries
- ✧ Forensic evidence

Investigation to begin in all cases of stove-related accidents forthwith.

Support Services

- ✿ Prevention Services for victims and children
- ✿ Employment
- ✿ Training
- ✿ Parenting
- ✿ Health services
- ✿ Counseling
- ✿ Legal assistance
- ✿ Shelter & Refuge

Support Services (Contd...)

- ✿ Telephone Helpline
- ✿ Self Defense Classes
- ✿ Support Groups
- ✿ Yoga & Meditation

With assistance from :-

Project Outreach

Mental Health Professionals & Social Workers

Crime Victims' Assistance Centres (CAVACs)

Mediation

Pre-Litigation Mediation

By service provider, counsellors, etc.
held to be valid

Jaya Sagade v/s State of Maharashtra 2015 5 BCR 638; 2016 1 AIR MR 115

Post-Litigation Mediation

Authorities

- ★ Magistrate [s.2(i)] or civil, family or criminal court [s.26]
- ★ Protection officers [s.2(n)]
- ★ Service providers [s.2(r)]
- ★ Police officers
- ★ Welfare expert [s.15]

These provide facilitation for social justice – a human rights issue

Duties of Authorities

Magistrates

- ★ Inform the aggrieved person of rights to reliefs and services [s.5]
- ★ Upon application or relief – fix date of hearing within 3 days [s.12(4)]
- ★ Dispose of application within 60 days [s.12(5)]
- ★ Direct notice of application by protection officer to the respondent within 2 days [s.13(1)]
- ★ Send copy of the Order to the parties, police and Service Provider [s.20(4), 24]

Duties of Authorities (Contd...)

Protection Officers & Service Providers

- ★ Inform the aggrieved person of rights to reliefs and services [s.5]
- ★ Provide shelter [s.6, 9(1)(f), 10(c)]
- ★ Provide medical aid [s.7, 9(1)(g), 10(2)(b)]
- ★ Assist Magistrate [s.9(1)(a)]
- ★ Make domestic incident report [s.9(1)(b), 10(1)(a)]
- ★ Apply to Magistrate on behalf of aggrieved person for protection order [s.9(1)(c)]

Duties of Authorities (Contd...)

Protection Officers & Service Providers (Contd..)

- ★ Provide legal aid [s.9(1)(d), 19(1)]
- ★ Maintain list of Service Providers [s.9(1)(e)]
- ★ Ensure compliance of order for monetary reliefs [s.9(1)(h)]
- ★ Serve Notice of Application within 2 days [s.13(1)]
- ★ Declare Service (s.13(2))
- ★ Perform such other duties as are prescribed

Hence, they form a bridge between women and justice as Outreach Officers

Duties of Authorities (Contd...)

Police Officers

- ★ Inform the aggrieved person of rights to reliefs and services [s.5]
- ★ Provide police protection whenever directed [s.19(5)]
- ★ Provide counseling
- ★ Implement Protection Order [s.19(7)]

Rights of aggrieved person

- ✱ Right to information about reliefs and services [s.5]
- ✱ Right to obtain reliefs under s.14 and 18-22
- ✱ Right to matrimonial home [s.17]
- ✱ Right to free legal aid [s.5(d)]
- ✱ Right to file complain u/s.498(a) of the IPC [5(e)]
- ✱ Right to be provided shelter [s.6]
- ✱ Right to receive medical aid [s.7]

Beneficiaries of protection

- ✓ Spouses – usually wives
- ✓ Partners – usually female
- ✓ Adolescents and young adults – usually female (Dating & Parental Violence)
- ✓ The poor and illiterate

Young people between ages 16 to 24 are most at risk

Bail Requirements

Aspects to grant / refuse

- History of violence / repetition
- Level of injuries
- Whether happening in public / private
- Whether children were present

Considerations

- Actus rea and mens rea
- Victimology

DV Act - Reliefs

** Counseling [s.14(1)]

** Right to matrimonial home [s.17(1)]

** Injunctions [s.18]

- * Prohibitive [s.18(a) to (g) and 19(a), (c), (d), (e)]

- * Mandatory [s.19(b) and (f)]

- * Additional conditions and directions [s.19(2)]

** Execution of Bond [s.19(3)]

** Police protection [s.19(5) and (7)]

DV Act – Reliefs (Contd...)

- ** Return of Streedhan [s.19(8)]
- ** Monetary reliefs including maintenance[s.20]
- ** Temporary custody of children [s.21]
- ** Compensation and damages for injuries [s.22]

These include Interim Orders and Ex-parte Orders [s.23]

Other Reliefs?

- ◆ Restitution Orders
- ◆ Rehabilitation
- ◆ Restraining Orders upon acquittal
- ◆ Employment
- ◆ Alternate accommodation
- ◆ Photographs and particulars of offender in media
- ◆ Legal separation
- ◆ Earnings from property
- ◆ Deposit of security
- ◆ Home visits

Aspects requiring Judicial Notice

- ★ Repeat Victimisation – *it escalates in severity and frequency*
- ★ Repeat Assaults – *a habit*
- ★ Injuries are seen later – *e.g. strangulation marks, pain, fractures, cuts & bruises*
- ★ Onus of proof – *when shifts?*
- ★ Conflict of interest of woman and child - *Special child protection measures*

Dying Declarations

※ Procedural Tests of written DD

- Language
- Format
- Scribe
- Signature
- Length
- Contents
- Certification
- Date / Time
- Explained and found correct

Dying Declarations (Contd...)

※ Test of truthfulness

- Competent witness
- Physically and mentally fit
- Not tutored
- Delay
- Possible opportunities
- Consistency
- Corroboration

※ Why ?

- Hearsay evidence
- Evidence not on oath
- Not subject to cross examination

Case Law of DD

- Harjit Kaur v/s. State of Punj 1999 CrLJ 4055 [2 DDs]
- Saira Bano v/s. State of Mah 2007 CrLJ 1458 [2 DDs]
- Laxman v/s. State of Mah 2002 All MR (Cri) 2259 (SC) [No endorsement of Doctor required]
- State v/s. Singari 2002 6 KLJ 62 [No endorsement of Doctor required]
- P V Radhakrishnan v/s. State of Karnataka AIR 2003 SC 2859 [No endorsement of Doctor on PO's statement required]
- Tejram v/s. State of Mah 2009 All MR (Cri) 1047 [No endorsement of Doctor required]
- Vidyadevi v/s. State of Haryana AIR 2004 SC 1757 [DD by PO, endorsed by Doctor – accepted]
- Subash Soni V/s. State of MP 2009 6 SCC 647 [Requirements of DD laid down]

The Judiciary must
Hear those who cannot shout,
Listen to those who cannot speak.

