



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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DOMESTIC VIOLENCE AND THE ISSUE OF RESIDENCE

AUTHORED BY – AMAN AHLUWALIA

INTRODUCTION

What role women are playing and can play in development has become the main topic of discussion around the world at the beginning of this millennium. In terms of their socioeconomic and political empowerment, it is clear that women have made significant progress over the past few decades. Despite this, it is an open secret that many women in developing nations like India are far from enjoying the benefits of the developmental process, despite their valiant efforts to ensure the sustainability of the machinery. Women have experienced significant social and economic advancements, even in affluent nations, yet they still lack political equality. However, even in developed nations, women who are self-sufficient financially, encounter numerous challenges in daily life. In nations like India, where women are worshipped while also being mistreated and completely subordinated, the situation is worse.¹

In its many stages over time, human development has highlighted the necessity of empowering all people, particularly women, and has done so by promoting, developing, and coordinating programmes under a Human Development Agenda.

Due to the values of social justice, equality, and participation in decision-making in both private and public life, this will help people become self-sufficient and contribute to the process of national development.

As is typical of human thought, there are at least three ways to approach the question of gender and development: from the perspectives of equality, empowerment, and development effectiveness. The first point of view emphasises equality as the cornerstone of the social contract: Male or female, everyone should be treated equally in society, politics, and the

¹ Walker, L. E. "Psychology and domestic violence around the world". *American Psychologist*, 54(1), (1999)

economy.

This is a potent justification that comes from political philosophy. Extending people's options and levels of control over their life is the basis for the second defence. According to this viewpoint, highlighting gender emphasises the importance of empowering both women and men for development. The third strategy contends that gender issues affect the effectiveness of development efforts and may persuade people who are dubious about the place of gender in development policy-making. In recent years, more successful development has been regularly attributed to women's active participation in governance, education, and income generation.²

According to Greek philosopher Aristotle, "Man is a Social Animal," since prehistoric times, his behaviour has been animal-like. Man is an egotist who values himself above all others. It doesn't imply that he lacks noble qualities. Even after civilization emerged, man has continued to pretend to be nature. As a result of this pattern of behaviour, the State is left with little choice but to enact a number of laws to stop the behaviour that endangers the lives of other people. Women are seen as the property of men. She is viewed as a component of man, as shown in the sculpture "Arthanariswara." This indicates that society does not want or intend for women to live on their own in this world. All of the dharma Shasta, starting with Manu Code, are treating her inhumanely in various ways. On the one hand, they view women as goddesses, but on the other, they have only treated them poorly in return for the physical labour and household duties they have performed for their families. The sacrifice made by a woman is completely overlooked, not even acknowledged, and not even shown the slightest amount of appreciation to comprehend the deed of a woman.³

Women today do have a certain status if they are educated and self-sufficient financially. However, having complete independence and completely engaging in the decision-making process in their lives must go a long way. Too many limitations, traditions, and customs render women handicapped and unable to act to stop these customs, even when they want to. Even if we concede that women have rights, they are now very average and limited, and they still lack a great deal in order to live the lives they choose. Indian women's status is precarious

² Ola W. Barnett, Cindy L. Miller, Robin D Perrin, *Family Violence Across the Life Span* (Sage Publication – p.20 2010)

³ Sherri L. Schornstein, *Domestic Violence and Health Care* (SAGE Publications – p.7. 1997)

today. Every woman should face the true struggle of life after marriage, and she is under pressure to uphold a good reputation with her husband, in-laws, and the relatives in both of their families. The struggle starts here, where all of her desires come to a standstill position and her husband's wishes are forced and thrashed upon her, which automatically becomes her priority. This is her first task, to earn good name from her family members she is forced to transform her identity as according to the needs of the new family. She has been taught by her parents to follow this tradition, and she is under pressure to think that once she achieves this, all other women will vanish. She is under enormous pressure as a result of her new relationship, and she needs extraordinary talent and strategies to handle the entire situation that results from it, which drains her energy completely. The majority of women experience this actual struggle at the hands of their husbands, in-laws, and other family members.

The violence that women perpetrate in their husband's home puts them in genuine danger of losing their lives. They experience this violence throughout their lives, which is referred to as "domestic violence." According to academics, domestic violence is a social crime. Human interactions have given rise to civilised societies. Therefore, in order to survive in society, an individual requires a group that shares a common place to live, engages in economic cooperation, and reproduces. The family structure facilitated this. Family formation is a long-standing custom. Marriage is the most common way that families are formed. Relationship between opposite sex is legally and socially accepted only through marriage. But, this is not the only way practiced in recent days.⁴

1.1 Human Rights Definition:

There must be a balance between the existing faculties and forces of nature and if there is an imbalance then the existence is rendered difficult. It has been said by scholars both spiritual and temporal and that there are five distinct qualities in all beings representing the faculty of Sight, or Sense, or Smell or Taste or Touch. All beings do not possess all faculties; some possess one or more than one or all the five. Of all the beings which are living, Human being is the Superior one. Since, he possess the sense of reasoning or discernment and this facilitated by his capacity to understand the real meaning of anything which is felt by him either through all the five senses or some of them or any one of them. Human Rights are

⁴ Elizabeth M. Schneider, *Battered Women and Feminist Law making* (Edition p. 102. 2006)

defined as "the rights relating to life, liberty, equality, and dignity of the individuals guaranteed by the Constitution or enshrined in the International Covenants and enforceable by courts in India" under Section 2(d) of the Human Rights Act of 1994.

All created beings possess varying degrees of faculties that are essential to their continued existence. All beings or things, whether animate or inanimate, already possess certain attributes and in due course acquire other attributes from outside influence. These are all necessary for survival and can either be inherited or developed due to the influence of circumstances that are constantly present in nature.

Today's man aspires to become a rational being rather than a social animal. He is logically granted certain rights—known as human rights—by this Rationality. The rights are essential tools that he needs in order to safeguard his five senses, including his "Right to Existence" and other rights. A man must not unjustly die since he was created to live. His rights could be restricted by strong societal forces, depriving him of the chance to exercise them. A man's rights may be restricted in ways other than the five senses. He has the right to freedom of movement, the ability to exercise his conscience, and the ability to pursue his spiritual interests as a rational being.

There are a plethora of additional rights that fall under the category of "Fundamental Human Rights." So, in order for the human being to experience and enjoy the fullness of his life via meaningful existence, conducive forces must be fostered and promoted. At the same time, the human being must be protected from all types of invasions of his rights. In essence, any right that a person exercises and that is necessary for the continuation of his or her life is a human right. "A Human Right implies the Power to Prevent Invasion or Impediment of Natural Rights and also to Encourage and Develop These Rights with the Ultimate Aim of A Man's Continuous and Free Existence In This World," according to the Universal Declaration of Human Rights.⁵ All living things are endowed with innate attributes that must be preserved; this protection is equivalent to the right required to provide that protection, and those rights are meant to ensure the ongoing existence of those living things. Man is a little portion of the massive component, which is one of the species in the universal genus.

It is essential that man be guaranteed of the preservation and protection of his rights because the

⁵ Dr. Bijar Narain Mani Tripathi. *An Introduction to Jurisprudence (Legal Theory)*, 277 (Allahabad Law Agency, Faridabad, 17th edn., 2006).

rights that are available to him as a human being may be disturbed or violated by his own internal behaviour and attitude or by external impact. The rights that he or she has access to as a family man or woman are covered in this thesis; however, the full range of human rights is not intended to be covered.

A man and woman come together to live together in the family, which is a civilised unit of society, in order to have children and to satiate their sexual desires. This is the main motivation behind the union, which is carried out according to a number of socially accepted rituals, conventions, norms, laws, and reputations that are frequently sanctioned by law.

Additionally, it is suggested that women's rights be restricted in both family and social contexts while also studying the nature and characteristics of those rights. The first three chapters cover all of the aforementioned claims.

It is suggested that the distinctive characteristics of women's rights be highlighted in the chapter on the special notions of human rights because of how vital a role women play in both society and the home. The rights of women are given major consideration in contemporary thought, and the world as a whole has begun to consider the best ways to recognise, uphold, and defend these rights while simultaneously putting in place sufficient protections to prevent their infringement. Her responsibilities as a wife, mother, and guardian of the domestic needs of every family member are vast and intricate. A person must exercise greater caution and consideration in such circumstances in order to fulfil her obligations to her family, society, and herself without suffering a violation of her personal rights.

A woman has many responsibilities in a family, and the safety she has available to her pales in comparison to the vast tasks she must perform. She is restricted to a family life, therefore she is subject to internal or external restraint and limitation. We cannot claim that a woman who enters into family life is unambiguously deprived of a great deal of her freedom, has less power over herself, and is under the control of her husband, who plays a domineering role in the family.⁶

⁶ Jana L. Jasinski and Linda M. Williams, *Partner Violence*, 9 (SAGE Publication, 1998)

Next, a woman yields to the restriction she has placed on herself as a result of social, religious, and biological pressures. Her own inhibition, which she defends, governs her actions, behaviour, looks, and other personal attributes. She is being modest, courteous, and humble in order to establish a good reputation. The idea that their behaviour will be perceived as unwomanly or contrary to their feminine character makes many women feel content if they maintain a polite demeanour when dealing with others. Such self-imposed limitations ultimately result in man's will and might subjugating nature. She believes that because she lacks the strength to compete with her husband or male protector on an equal footing, she must submit in order to survive because he has the advantage of both physical and financial probers.

A woman is susceptible to psychological stress while carrying out her responsibilities in that narrow circle when she is firmly enmeshed in family life. She is required to communicate with the other family members, and during these conversations, she learned about the opinions and choices of others. She may not cognitively agree with such enforced beliefs and concepts, some of which are dominant and others demanding, but she is nonetheless compelled to act in accordance with them. If she disagrees, she has psychological tension, which means that she is acting in a way that she does not mentally support. When she is unable to carry out her opinions and wishes, she becomes psychologically vulnerable. She may occasionally be entertaining her own... views that she has picked up from outside circumstances. When she is intensely trying to apply them in her family and when the same are not met with approval.

Despotic stress because she feels ignored, her opinions are misunderstood, and her position is disregarded. She must therefore impose on others and accept ideas that have been thrust upon her. She becomes the victim of psychological stress as a result of this difficult situation. In a family, a woman must simultaneously fulfil the roles of wife and mother. She must appease her husband and comply with all of his whims and demands, including those relating to sexual activity. It frequently happens that the husband expects passive compliance with his demands while being unmindful of his wife's feelings. She enjoys her husband's company frequently, so when she refuses to accommodate his sexual needs and desires, she feels helpless and unsupported. On other occasions, however, when she is in desperate need of satisfying her sexual appetite, her husband may not be willing to do so, forcing her to suppress her urges and suffer

the consequences. As a mother, a woman is responsible for her children's behaviour in addition to their health. While the mother must carefully plan how to feed her children while also taking action to improve their behavior, the father is happy to provide the means for feeding the kids.

Mothers are more responsible and accountable for the upbringing of their children than fathers, who are more concerned with the outcomes of such upbringing. Mothers are also more responsible and accountable for supplying the essentials for their children's existence. While the mother is preoccupied with the upbringing process, the father is focused on the end result of the children's development. Therefore, a mother's contribution is enormous and significantly less complicated than a father's.⁷

A woman must find a balance between her family interactions and those of her relatives because she must interact with people outside of her immediate family on a regular basis. Her relatives may have certain dealings with her, such as family functions and relationships, which could lead to disputes over marital or property dealings. She can behave negatively toward how her relatives connect with one other and vice versa. The defence of her family's interests might conflict with how a relative interacts with her. Her functioning inside her own family may also be impacted by the attitude of the relative, and this influence may lead to an imbalance in how she performs her obligations. At other times, she may also have to interact with people who are not her relatives, such as neighbours and community members. She may not be in a position to criticise the opinions of the community because she must fulfil her obligations to the community or religious organisation to which she belongs. According to her husband's wishes, those of her family's elders, or those of her grown children, she may occasionally be forced to deal with issues in the community. She might not be sufficiently knowledgeable and diplomatic in all of these interactions. She is forced to contact with them primarily against her will, which makes her worried about her family's future and causes more complications for her than for her family. Therefore, the wife needs to be morally and psychologically strong enough to resist the pressures placed on her by others. It is the responsibility of society and the legal system to determine and put into place the necessary safeguards to protect a woman from this unavoidable circumstance.

⁷ V.V. Devasia and Leelamma Devasia, *Woman Social Justice and Human Rights* 58 (APH Publication Corporation 1998)

The majority of the time, a woman enters a family as an inexperienced young woman. Her age makes the introduction to her family life more passionate and filled with high expectations. She anticipates that her husband would treat her with respect, tenderness, and affection and that he and the rest of the family will attend to all of her needs. She receives more attention from her husband in the beginning of their relationship because she is young and beautiful for her age. Naturally, he gives her more attention, much to the dismay of older people. Her in-laws may not always be kind to her because they believe that their male relative, a woman's husband, is giving her more attention and eschewing their authority. The quarrel between the elders and the newlywed wife puts the husband in a difficult situation. In that scenario, he would rather appease them at the expense of his wife's feelings and would subsequently counsel her to put up with the elder's behaviour. However unfavourable it may be, if he truly loves his wife, he expresses it to her without the elders' awareness, and if the elders are exerting too much pressure on him, he openly orders his wife to obey them. After the child is born, the situation worsens, and she now has to contend with issues that are being thrust upon her by her husband, her in-laws, and the newborn child. She is now more devoted to the family and involved in the upbringing of her child, which forces her to comply with the rules and regulations set forth by her husband and parents.⁸

Women had some rights, but they were extremely limited and were viewed as individual rights, meaning they had to use civil remedies and go up against other women individually. The state now has a responsibility to protect women and children under Article 15(3) and Articles 23, 24, 38, 41, 42, 43, and 45 since women's rights are no longer considered to be individual rights but rather are now recognised as Human Rights, giving them greater legislative protection and allowing them to use constitutional remedies under Articles 32 and 226. "And enforceable by Courts in India" are the key phrases. These phrases strictly limit human rights to those that are recognised by Indian courts and are enshrined in Part III of the Constitution. Since the question of why the Commission was created to defend fundamental rights when they are constitutional rights that may be enforced in court comes up, is it still relevant? The improvement of human rights protection seems to have been the main goal of

⁸ V.V. Devasia and Leelamma Devasia, "Woman Social Justice and Human Rights" *APH Publication Corporation* 162. (2008).

the legislation. The Government was reviewing the current laws, procedures, and system of administration of justice with a view to bringing about greater accountability and transparency in them as well as developing efficient and effective methods of dealing with problems relating to women and children at the time the Bill was introduced due to the growing concern about issues relating to human rights both in the country and abroad.⁹

The 1993 World Conference on Human Rights established the critical relationship between global stability, legality, and human rights, positioning them all within the broader framework of democratisation and development.

The UN is working more and more to avoid or end wars while also taking steps to lessen violations of human rights when there is internal strife. Minority protection, bolstering democratic institutions, achieving the right to growth, and ensuring that all people respect human rights are given particular attention.¹⁰

1.2 Beijing Declaration

In September 1995, at the Fourth Women's Conference in Beijing, it was decided to further the objectives of equality, development, and peace for all women worldwide in the service of all humanity. Honoring the women who blazed the way and being inspired by the hope present in the world's young while acknowledging the voices of all women everywhere and taking note of the diversity of women and their roles and circumstances. Recognize that, despite unequal advancement, persistent gender disparities, and significant challenges, the status of women has improved in some significant ways over the past ten years. This has critical implications for the wellbeing of all people.

1. Recognize that this condition is made worse by the rising poverty that affects the majority of people around the world, especially women and children, and has both national and international origins.
2. Unreservedly commit to removing these restrictions and barriers in order to further the advancement and empowerment of women around the world. We also concur that this calls for

⁹ The Commission has recommended to the Government for the amendment in the preamble by adding 'including the implementation of International Covenants' (See Annual Report of the National Human Rights Commission, 1999 – 2000 p. 183).

¹⁰ United Nations, "Human Rights Today: A United Nations Priority." The United Nation and the advancement of women 1945-1995

immediate action in a spirit of resolve, hope, cooperation, and solidarity both now and as we move into the next century.

The Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Declaration on the Elimination of Violence Against Women, and other goals and principles outlined in the United Nations Charter, as well as the equal rights and inherent human dignity of women and men, are all examples of international human rights instruments. In particular, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Declaration on the Elimination of Violence Against Women guarantees the full fulfilment of women's and girls' human rights as an intrinsic, essential, and unalienable component of all other human rights and fundamental freedoms.

To achieve equality, development, and peace, build on the agreement and advancement made at prior United Nations conferences and summits, including those on women in Nairobi in 1985, children in New York in 1990, the environment and development in Rio de Janeiro in 1992, human rights in Vienna in 1993, population and development in Cairo in 1994, and social development in Copenhagen in 1995. Implement the Nairobi Forward-looking Strategies for the Advancement of Women fully and effectively.

The advancement of women, including their right to the freedom of thought, conscience, religion, and belief, will meet the moral, ethical, spiritual, and intellectual needs of both men and women, whether they do so individually or collectively, and will ensure that they have the chance to reach their full potential in society and live lives that are in line with their own goals.¹¹

For equality, growth, and peace to be achieved, women must be empowered and fully included on an equal basis in all aspects of society, including access to authority and involvement in decision-making.

Human rights include women's rights. Equal rights, opportunities, and resource access for men

¹¹ Meyer. M and E. Pragul, *Negotiating International Norms -The Convention on Violence against Women* 58 - 71., (1998)

and women, as well as a harmonious working relationship between them, are essential for their own well-being, the well-being of their families, and the development of democracy.

The full and equal participation of women and men as agents and beneficiaries of people-centered sustainable development, as well as their involvement in economic and social development, are necessary for the eradication of poverty based on sustained economic growth, social development, environmental protection, and social justice.

The foundation of women's empowerment is the explicit acceptance and affirmation of their right to fully control all facets of their health, including their own fertility. The growth of women, who are an essential force for leadership, conflict resolution, and the promotion of sustainable peace at all levels, is a prerequisite for local, national, regional, and global peace, which is attainable and intricately tied with it. At all levels, it is critical to develop gender-sensitive policies and programs, including development policies and programs, that are effective, efficient, and mutually reinforcing in order to promote the empowerment and advancement of women.

The effective implementation and follow-up of the Platform for Action depend on the participation and contribution of all civil society actors, particularly women's groups and networks, other non-governmental organisations, and community-based organisations, while fully respecting their autonomy and working with governments.

Governments and the international community must be committed to implementing the Platform for Action. Governments and the international community acknowledge the need to take priority action for the empowerment and progress of women by establishing national and international commitments for action, including those expressed at the Conference. To fulfil the objectives of the Nairobi Forward-looking Strategies for the Advancement of Women by the end of this century, intensify efforts and measures. Make sure that all human rights and fundamental freedoms are fully enjoyed by women and girls, and take effective action to stop violations of these rights and freedoms.

1.3 Women's Empowerment And Gender Equality:

Understanding gender equality and the empowerment of women are important goals that

underlie every enterprise development. The abolition of global poverty and the protection of human rights depend critically on the empowerment of women. Therefore, women's empowerment is viewed as a slight increase in income, but this is insufficient on its own to achieve the desired result; instead, a change in power dynamics is needed. This means that power dynamics within households, markets, and communities at the national and international economies must be taken into account in enterprise development in addition to income levels.

This has helped many women today come out of their shells, confront the world with more confidence, and take on anything with the information and skills they have to live the better lives they deserve. But this also raises the question of whether women's independence is misconstrued and whether they lack sympathy for their relationships. However, this uncertainty is frequently unfounded and unsubstantiated.

1.4 Women's Empowerment In India:

In India, gender discrepancies are well-known. In addition to having lower literacy rates than men, women also make up less of the labour force. Additionally, women are proportionally underrepresented compared to men, highlighting how entrenched this disadvantage is for women. Empowerment is typically seen as a difficult concept to quantify. Measures of empowerment are evaluated in India along four dimensions: Possibilities, Options, Resources, and Rights.¹²

- Effective and efficient capabilities: How women's health and education help them make decisions. (In the home and in the outer world).
- Choices refers to the kind of opportunities that women have access to through social institutions at the state, market, community, and family levels.
- Assets - Ownership and Control of Property and Productive Assets. (Not just for tax exemption reasons.)
- What Rights Are Available to Women Under the Law? How much do they know about it? And how can they use them to their best advantage?

¹² Swami Mahabananda and Sri R.C. Majumdar , *Great Women of India* 34 (2022)

1.5 Gender:

The social creation of relationships between men and women is referred to as gender. Our main objective is to prevent anyone or any group from being discriminated against because of difference. All kinds of subordination, oppression, and discrimination based on gender must be eliminated by the government and society.¹³

1.7.1 Gender Equality:

It is a fundamental and non-discriminatory interaction between men and women in society that is referred to by this constitutional value. Gender equality refers to a society where men and women have equal access to resources, opportunities, and decision-making authority.¹⁴

1.7.2 Causes Of Gender Inequality:

- In several areas of India, there are more men than women in terms of the sex ratio.
- Compared to male babies, more female babies are slaughtered or forced to die.
- Compared to men their age, women have lower levels of education.
- Women are underrepresented in jobs that provide a salary.
- Additionally, women hold relatively fewer positions in governance and decision-making.
- Women experience violence throughout their lives both within and outside of the home. When compared to recent history, the number of crimes against women in India has nearly doubled.¹⁵

1.7.3 Poverty And Gender Inequality:

"Poverty has various manifestations, including a lack of food and productive resources sufficient to ensure a sustainable means of subsistence; hunger and malnutrition; ill health;

¹³ Catherine A. Mackinnon, *Sex Equality* 45 (2001 Edition)

¹⁴ Ajit kumar Sinha, *New Dimensions of Women Empowerment* 57 (Deep and Deep Publication Pvt. Ltd. 2008 Edition).

¹⁵ Jamil Ahmed, *Gender Inequality and Women Empowerment* 130 (Deep and Deep Publication Pvt. Ltd. – 2008Edition).

limited or no access to education and other basic services; rising morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments; and social discrimination and exclusion." It is also characterised by a lack of involvement in political, social, and civil decision-making. It exists in all nations as pockets of poverty in developed countries and as mass poverty in many developing nations.¹⁶ This was done to support and defend women's human rights all over the world.

1.6 Impact Of Economic Status Of Women On Domestic Violence:

All types of inequality and the ensuing oppression they lead to are rooted in economic hardship. It is quite difficult to close the economic gap between the haves and the have-nots. The only way to achieve economic equality is to close the gap between these two extremes. It is not necessary to bring wealthy individuals down to a lower level; rather, society should work to raise the status of the underprivileged. A woman must depend on males at all stages of her life, according to the proverb. It is an old tale of femininity that they are not permitted to hold riches or retain economic independence. She was economically dependent on men for all of her requirements at the time this was being narrated, from shelter to old age infirmities, in addition to personal protection. Her physical fragility and this type of dependence are permitted by tradition and religion. She has endured unimaginable pains and afflictions, and her family has always regarded her as a favoured slave. She is unable to exercise or defend her gender-specific fundamental rights. Despite the fact that she is entitled to certain rights under the Indian Constitution, she still faces challenges in daily life.¹⁷

She turns into a plaything for dominance and male chauvinism in the context of domestic abuse. Men view her as nothing more than a sensuous object of pleasure that should be tasted and then discarded. Men do not take into consideration a woman's desires, financial limitations, or other needs. Such subliminal hatred of women leads to violence against her domestic sphere, and she is forced to endure it and is unable to break free of the bondage because she cannot physically

¹⁶ Message with reference to Beijing Platform of Action, United Nations, '1996 Fourth World Conference on Women in Beijing', China.

¹⁷ S.M. Javed Akthar, *Empowerment of Women in India – Issues and Challenges* 98 (Deep and Deep Publication Pvt. Ltd. – 2008 Edition)

survive outside the family unit. Therefore, strategies and tools must be developed to empower and economically independent women.

There are laws in place today that give women the right to claim ownership of property. They have employment and income opportunities. They are encouraged to start their own businesses, even if they are well-known traders. Women who work in these fields feel wealthy and independent financially. Although they feel satisfied and fulfilled, this leads to a change in their thinking, which is a disadvantage for them. They become arrogant and strive to assert themselves too much, which is beyond the capacity of the male members. The same way that economic affluence has the same impact as economic dependence, occasion, and female suffering does. If an affluent woman behaves in a way that goes beyond what the male members would expect, it will hurt women in domestic situations.

Male participants frequently believe, and rightly so, that the wealth that an affluent woman independently owns affects her behaviour. Once more, it is implied that male members will invent ways to rob female members of power over their own holdings. Forcing a woman to give up their property, wealth, or monthly income in favour of her male protectors may result in domestic violence in the form of harassment.¹⁸

Women must be economically independent, but they must also understand that their money must not stand in the way of living a united, loving, and caring existence at home. They would do well to retain a detached attitude toward their own wealth and to hold the generous belief that her property belongs to the family she resides in. A woman must have the noble thought that her fortune would be used for the benefit of her entire family. To avoid being perceived with envy or jealousy, women should let go of their feeling of exclusivity and establish friendly interactions with other family members. In this way, it will become clear how important it is for women to be economically independent and how important it is for them to manage their finances so that their family benefits. Domestic violence would be significantly less common in such a household.

1.7 Importance Of The Study:

¹⁸ KumKum Narain and Meera Mirudubhasini, *Empowering Women through Economic Measures* 178 (Deep andDeep Publication Pvt. Ltd. 2008 Edition)

Within the confines of the family home, women are more likely to become the helpless victims of all forms of abuse. Violence is typically committed by male and female members of the same family who are both present at the time. Everyone makes it through with a surprising accident, ranging from a bride being burned to a rape. The innocent and defenceless ladies are the victims. Liberation movements, the establishment of numerous social welfare organisations, and the constitutional promise of equality before the law all contributed very little to the advancement of women.

Even though violence against women is not a recent phenomenon, in the past 30 years, the issue has received a lot of public attention. Since 1975, a number of independent women's organisations have emerged to raise awareness about female violence. The various forms of violence perpetrated against women in society—both internally and externally—indicate the social status of women as well as their roles, responsibilities, and connections within the family, as well as their ability to make decisions and maintain their autonomy.

It is important to consider domestic violence legislation in this perspective. The National Human Rights Commission has recommended that the draught measure be expanded to cover all forms of domestic abuse, not just violence committed by a husband against his wife, such as violence against children, the daughter-in-law, the elderly, and other dependents. The Commission has also recommended changes to the enforcement apparatus, including the function of Protection Officers, participation by non-governmental or civil society organisations, and the function of the Court. The Protection of the Women from the Domestic Violence Act of 2005 was introduced to address the issue of domestic violence in India by offering victims of domestic violence both civil and criminal remedies. Understanding the impact of legislation in reducing domestic violence in India is helped by the study.¹⁹

1.8 Objectives Of The Study:

The current study aims to investigate Domestic Violence and the Protection of Women's Human Rights. Thus, the following are the primary goals of this research:

1. To evaluate the level of domestic violence against women that exists in the family and takes many different forms.

¹⁹ Preeti Misra, *Domestic Violence against Women – Legal Control and Judicial Response* 268 (Deep and Deep Publication Pvt. Ltd., 2006)

2. To evaluate how different offences affect the status of women.
3. To research the issues with gender justice.
4. To research what drives violence against women
5. To investigate the ways in which women's rights are being abused.
6. To talk about the rights granted to women and how the State holders actually use them.
7. To research the justifications for introducing a special domestic violence law.
8. To research the legal framework around domestic violence and the difficulties associated with enforcing the law.
9. To assess the effectiveness of government efforts to end violence against women and the Service Providers and Protection Officers appointed under the Act.
10. To make recommendations for actions that should be taken to put the law into action in order to end domestic violence generally and contact domestic violence by the victim with the active assistance of civil society specifically.

In Study an effort is also made to evaluate the roles that

1. The 2005 Protection of Women from Domestic Violence Act's redress agencies play in the community.
2. To talk about the corrective actions required to end domestic violence.
3. To talk about the Protection of Women from Domestic Violence Act of 2005 and the roles of influential women's organisations, other non-governmental organisations, and protection officers.

1.10.1 Hypothesis:

The researcher offers the following hypotheses for investigation in this study:

1. The PWDV Act, 2005 has shortcomings in and is not adequate / is insufficient in handling the problems of victimization of women.
2. Majority of Domestic Violence incidents go unreported due to illiteracy, unawareness about the laws, orthodoxy and financial inability.
3. Protection or monetary orders does not ensure better living conditions for the victimized women.
4. Women who are "uneducated" are more likely than educated women to be victims of domestic abuse.
5. Domestic violence affects women in joint families at a higher rate than it does in nuclear families.

Conclusion

A summary of the research work, the researcher's findings, and his recommendations to improve the status of the law are presented in this chapter after a thorough examination of the nature and scope of Indian laws pertaining to domestic violence.

Summary Of The Research Work

What constitutes "domestic violence" is the first question regarding the topic, and how the law has evolved into general and particular law at the national and international levels is the second. The answer to the first question must be found in a wide variety of behaviours that jeopardise the rights and interests of women. In this respect, the specific and local laws come after the general law of crimes in terms of providing evidence of the rule of law. As a result of the international events, the theme was reconceived in a way that allowed what had previously been considered a form of "private torture," or an injury committed by one person against another, to also be viewed as involving State responsibility and thus become a topic of international law. Due to the treaties, agreements, and declarations that had developed on this subject at the international level, the idea of domestic violence received worldwide implications.²⁰

In contrast to India, where domestic violence has been covered by the law since its inception in the form of criminal law, the Common Law of Torts was the most prevalent form of civil law in Western countries, particularly the United Kingdom. This particular area of law offered Writs as redress to those who had been wronged, and it was through these Writs that principles regarding the remedies that could be used in response to harmful behaviour by individuals in various relationships, particularly the domestic relationship, were developed.

The two key components of the system of remedial justice at the time were the requirement that remedies for violence against women be pursued in accordance with the principles of civil law and the question of whether domestic violence was covered by the law.

The Common Law courts have occasionally held the position that a husband's aggression

²⁰ A.S.Anand, "Justice for Women concerns and expressions", *Universal Law Publishing Co. Pvt Ltd.*,(2003).

against his wife is not a punishable offence and that the Court had no further recourse. Domestic violence was, however, viewed as an actionable wrong after a shift in the courts' mentality and the realisation that violence, wherever and whenever it happened, is violence. Domestic violence became a widely accepted crime in the field of criminal justice when the two branches of law split and criminal law emerged as a fully-fledged discipline.

Another development was the legislation on this specific topic, which made it possible for the creation of special laws on the topic. There are now special laws in English law, such as the Family Law Act of 1996, the Damages Act of 1971, the Protection Against Harassment Act of 1997, the Human Rights Act of 1998, etc., that aim to give the subject of individual rights and the remedies for their violation a little bit more of a scope.²¹

Although there is a full-fledged area of criminal law dedicated to dealing with domestic violence, the arrival of civil law, which deals with protecting women's rights and interests from attackers who engage in violent behaviour, has had a significant impact in recent years. The main goal of each of these legal initiatives has been to uphold the standing of women in society, and married women's status in particular. There are a number of new remedies, including occupancy orders, residency orders, custody orders, compensating orders, etc., and every effort is being made to create a remedy that is as effective and efficient as feasible. The creation of new institutions like protection officers, service providers, and counselors, among others, represents a new development in the remedial justice system. The new institutions and remedies are not a replacement for the traditional institutions that operated under the auspices of criminal law; rather, they are an addition to the criminal justice institutions that seek to offer additional remedies under civil law after discovering that the criminal law remedies were insufficient in a number of circumstances.

²¹ Meera Seth, *Women and Development*, (Sage Publication, New Delhi, 2002).