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A Socio Legal Study Examining The Protection Of Women From Domestic Violence In The State Of Mizoram

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Abstract: Throughout history, the feminine gender has been recognized as the cornerstone of both families and society as a whole. Women play a pivotal role in pro-creating, nurturing shaping their families and transmitting their tradition and cultures across generations, thereby strengthening their families. Regrettably, women have faced numerous instances of grave injustice at all levels, regardless of their age, community and racial background. This situation persists due to pre- dominantly patriarchal nature of the Indian culture, where women often remain silent about their suffering either accepting them as a part of their lives or being reluctant to complain. This makes them vulnerable to exploitation. Regardless of their territorial boundaries, cultural background, or educational status, individual may encounter varying degrees of violence. A report by the United Nations Organization reveals that women constitute nearly half of the world's population, yet their work accounts for two third of the global workforce. However, they receive only one- tenth of the world's income and their ownership of property is less than a hundred percent of the world's total. Consequently, women are victims of various forms of inequality and discrimination. In response to these challenges The Legislature have enacted numerous laws to ensure women's due place and share in the society. Nevertheless, millions of women remain ignorant or unable to fully exercise their rights and freedoms which are legally guaranteed. It is imperative that these legal enactments should not be merely symbolic. The significance of the study is that there has been a significant increase in the official reported number of crimes against women, particularly wives in marital households in India. Violence against women is not a novel phenomenon and is prevalent across various socio-economic and age groups. Consequently, it appears to be an inherent aspect of human lives. In India, particularly over the past three decades, there has been a pronounced response to such escalating instances of violence against women by advocating for legislative actions. While our Constitution guarantees the Rights of Education to women (Article 14 and 15) and article 21 upholds the human dignity for both men and women, the complete protection of women from exploitation and harassment cannot be guaranteed.

Consequently, the researcher had delineated the following objectives for the study: Analyze the evolution of women's status from the historic period to the present day. Identify the concept of domestic violence that led to the enactment of the Act. Critically examine the various enactments in India regarding domestic violence over time.

Keywords: Women, domestic violence, Legislature, The Constitution of India, The United Nations.

I. INTRODUCTION

As defined by the World Health Organization, violence encompasses the intentional use of physical force or power, whether threatened or actual, directed against oneself, another individual, a group, or a community. Such actions can either directly result in or have a substantial likelihood of causing injury, death, psychological distress, developmental impairment or deprivation. Violence against women is a manifestation of historically unequal power relations between men and women, which has led to domination over and discrimination against women by men and the prevention of women's full advancement. Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared to men¹. Violence against women is always legitimized by arguments of culture, as no society is devoid of culture. The patriarchal culture inevitably validates violence as an acceptable, even desirable, attribute of masculinity, which tends to de-value women and all contributes considered feminine, thereby intervening in relationships. The age old philosophical perceptions on the role of women permeate all man- woman relationships within home, which is considered the repository of love warmth and affection. The emergence of the private sphere also known as the domestic sphere, was a natural consequence of the family ideology. Women's role in the domestic realm as wives and mothers, was considered a natural and evident product of their biological role in reproduction. These ideas nurtured and reinforced the distinction between the public and private spheres and the construction of family and domestic relations as something private. Family has been understood as existing beyond the state's intervention aimed at protecting women from oppression within this domestic spheres. Thereby the authority structure came to be considered as a patriarchal, succession to be patrilineal and living arrangements to be patrilocal, marked by unequal gender relations of power running along the gender lines in which man's powerful position and woman's subordination is accepted as a social norm to be conformed.²

General comprehension of violence and domestic violence

The definition of family violence, its prevalence and its gendered origin and expressions are fundamental to our comprehensions and responses to this phenomenon. Despite significant progress, the questions remain unsolved. Consequently, legislative definitions continue to diverge, as do definitions employed by the social sciences and health and family welfare service providers. These varying definitions reflects differing assumptions and emphases regarding the nature of violence, particularly family violence. Collins dictionary defined violence as: behavior that is meant to hurt or kill people, a great deal of energy used in doing something usually because you are very angry. The adjective violent is explained by the terms aggressive, charging, disorderly, intemperate, immoderate, anarchistic etc.³ Violence a coercive mechanism, asserts power by subduing, silencing and controlling individuals for harm or humiliation. It can be perpetuated by those in authority against the powerless or by the powerless in retaliation against coercion. The state's power is considered legitimate for resolving problems. However, the coercion in violence is illegal and socially

¹ The UN Declaration on the Elimination of Violence against Women 1993, Article 1.

² In the Indian households lines of hierarchy and authority are clearly drawn, the ideal of conduct help maintain family harmony. All family members are socialized to accept the authority of those above them in the hierarchy. The eldest male acts as a family head and his wives supervises her daughter- in- law among whom the youngest has the lowest authority. Reciprocally, those in authority accept responsibility for meeting the needs of other family members. See Suranjita Roy, Understanding Patriarchy, B.A Programme, Foundation Course, 'Human Rights Gender and Environment', University of Delhi, (2009), p.8

³ Shirin Kudchedkar, Sabiha Al- Issa (Eds), Violence Against Women: Women Against Violence, Pencraft International, Delhi (1998) p.13

unacceptable. Any hierarchical social organization inevitably victimizes the subordinate through subtle pressure, power ideology, socialization rewards and punishments and open force. Thus anyone facing coercion or disciplinary action is susceptible to violence.

Domestic violence is physical or emotional abuse that happens in a private home. It includes assault, manipulation and psychological torment, usually between people connected by law, family or intimacy. Psychologists claim that individuals address their insecurities and inadequacies by abusing and controlling others in their homes. Domestic violence makes abused individuals vulnerable and fragile. Violence including physical assault, rape and sexual abuse, infringes on an individual's right to be treated as a human being. Domestic violence happens outside the immediate households. Domestic violence is often synonym with family violence, wife battering and wife abuse. However, battering and battered are less common because they don't include other forms of violence that extend beyond physical abuse. These other forms of abuse can cause severe mental and emotional disorders leading to suicide and self harm. Violence on the domestic front has been a part of human society since times immemorial.⁴The myth of family sanctity overlooked domestic violence, women are economically dependent on their families, the patriarchal system perpetuates domestic violence, which is a gender crime perpetuated by men against women.

According to the Times of India, the women helpline in Mizoram under the purview of women and child development received 7,418 calls reporting cases of women being subjected to abuse from April to the end of July 2024. The officials have disclosed that the fiscal year 2024- 2025 (April 2024 to March 2025) witnessed the highest number of abuses against women with 13,994 cases received by the women's helpline. According to the recent reports a significant portion of women experiencing abuse falls within the age range of 18 to 40 years, comprising approximately 71% of the total. Additionally, 18% of women aged between 40 and 60 have been subjected to abuse. Notably, women over the age of 60 constitute 2.5% of the abused population, while girls under the age of 17 accounts for 4.5% of the abused group. According to the officials the case of abuse is categorized into two distinct groups: domestic and non- domestic. Domestic abuse encompasses the use of physical force against women, including verbal threats, financial infidelity, sexual assault and drugging or intoxicating individuals without their consent. Non- domestic abuse can manifest in various forms, such as outraging the women's modesty on social media platforms, engaging in online and offline sexual assault, stalking individual online and discrediting women to the extent of stigmatization.

Comprehending the causes of domestic violence: An examination of explanatory models

Literature on domestic violence has extended a hand full of theories to explain the causes of domestic violence in a society.⁵ The major theories that highlights the causes are:-

1. Feminist theory highlights the role of gender and power in shaping domestic violence. It argues that domestic violence arises from the unequal power dynamics between men and women in the society, which are evident in personal relationships. The patriarchal structure prevalent in social institutions like family exacerbates this issue.

⁵ Sheeba S. Dhaar, 'Domestic Violence Against Women: A conceptual analysis', 32 (1 & 2) The Academy Law Review 122 (2007).

2. Advocates of this theory emphasize the sociological perspective that family structure causes domestic violence. Families are unique social units that foster violence due to their inherent vulnerabilities and non-voluntary membership. Legal intervention in the family is unacceptable, which contributes to the concealment of violence within homes.
3. Psychological and physiological theories attribute domestic violence to underlying personal problems. They suggest that personality disorder or early traumatic experiences predispose individuals to violence. People with these issues may seek partners to recreate dysfunctional relationships with their parents. These theory emphasizes the influence of neurobiological traits on life situations, particularly focusing on the behavior of abusers in domestic violence cases. This analysis underscores the significance of various factors, including brain structure, chemical imbalances, dietary efficiencies and hormonal influences as the underlying causes of violent behavior. Addressing this factor is paramount to effectively mitigating and eliminating such aggressive attitudes.
4. Socio psychological theory focuses on how external factors affect individual offenders. Stressful situations or family dynamics are seen as precursors to violence. It includes like frustration aggression, perversion, self- attitude, cycle, learned helplessness⁶ and survivor theories⁷.
5. Socio cultural theories provide macro level analyses of violence perpetrated against household members. These theories conceptualize domestic violence as a consequence of socially structured inequality, socio-cultural attitudes and norms regarding anti- social behavior and interpersonal relations. They encompass various sub- theories, including structural- functional theory⁸, resource theory⁹, patriarchal theory¹⁰, social learning theory¹¹ and exchange theory¹².
6. The entire paper underscores the recognition that domestic violence is a human rights issue. The challenge lies in reconciling the fact that a solution to this issue must be applicable in the Mizoram context.

⁶ This theory states that a women's experience of non- contingent nature of attempts to control violence would over a period of time produced learned helplessness and depression as the repeated violence diminishes her motivation to respond. Hence, there will be passive acceptance of the exploitative situation.

⁷ Survivor theory view women are not passive victims but pro- active help seekers and survivors. This theory in contrast to the social helplessness theory credits women with the capacity to innovate newer strategies of coping and acknowledging the efforts of survivors in seeking help from formal and informal sources.

⁸ It asserts that social groups differ in respect to their typical levels of stress, deprivation, frustration and in the sources at their disposal to deal with these stresses. Those individual with low resources tend to be more violent. Stress can arise out of economic imbalances, bad housing, lack of job opportunities, frustrating work conditions etc. Men and women are particularly attached in certain determined social roles and expectations.

⁹ The theory assumes that family like other social system rests on some degree of force and power which is necessary to control behavior of members. The family as per the theory has four set of resources to maintain stability such as economic variables, prestige or respect, love and force of threat of force. Violence is employed either to dominate the position of torturer or for dealing with imbalance in family interactions.

¹⁰ This theory is the product of historical pattern of systematic violence directed against females in the households.

¹¹ This theory holds that those who witness violence between parents or who themselves experience abuse as children are likely resort to violence in adulthood. This problem refers to the 'inter- generational transmission of violence'. It means an individual resort to violence through imitation.

¹² This theory explains growth of anger and violence when the principle of distributive justice is violated. The theory describes violence on the basis of interaction between intimates that is guided by the pursuit of rewards and avoidance of punishments and costs. By applying the theory to the family violence, it may be said that people will use violence in a family if the cost of being violent does not out- weights the rewards.

Domestic violence is simply violence within the home, constitutes an infringement on an individual's right to live safely. It infringes upon their fundamental rights to feel secure within the confines of their residence, which for domestic violence victims often becomes a place of fear and violence. Notably, this form of violence predominantly targets women who are particularly vulnerable due to historical mistreatment and societal norms. Domestic violence is a pervasive issue that affects every society worldwide. It leads to a multitude of human rights violations, including social, economic, physical and mental harm. The process through which these human rights violations occur is elucidated in the accompanying diagram, which illustrates various violations that may transpire in a domestic violence case.



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II. OBJECTIVES OF THE STUDY

1. To highlight the historical perspective on the status of women
2. To examine the interface between domestic violence and human rights discourse.
3. To analyze the pre- enactment legal framework governing domestic violence.
4. To conduct a thorough and objective evaluation of the Act.
5. To propose modification to the policy that would enhance its effectiveness and align with the organization's objective.

III. HYPHOTHESIS

1. Domestic violence against women adversely impacts human rights.
2. The Protection of Women from Domestic Violence Act, 2005 in its conceptual framework exhibits significant deficiencies in the Indian context, leading to an alarming prevalence of domestic violence against women.
3. The insufficiency of the provision of the act may undermine the cohesion of the family system.
4. The implementing of the Act is inadequate in addressing the comprehensive understanding of domestic violence

IV. RESEARCH QUESTIONS

1. Does cultural and religious identity play a substantial role in shaping the dynamics of relationships between men and women in a shared environment?
2. Is the Act an effective instrument in addressing the issue of women who are victims of domestic violence?
3. Is the Act an efficient tool in solving the problem of women who are victims of domestic violence?

V. METHODOLOGY

The study combines doctrinal analysis with critical examination. The doctrinal sections examines the theoretical underpinnings and legal solutions of domestic violence, scrutinizing the Protection of Women from Domestic Violence Act for potential issues. The analytical section explores the necessity of culturally sensitive treatment, drawing inspiration from traditional family based cultures of protection and care as an alternative mechanism. It critically evaluates the consequences of criminal sanctions and alternative dispute resolution mechanisms in handling sensitive familial matters. The study draws upon diverse sources, including primary and secondary literature, statutes, judicial decisions, scholarly books on domestic abuse in the UK, US and India, peer- reviewed papers, government publications, relevant websites, databases, newspaper articles, newsletters, domestic violence manuals and guidelines.

VI. SCOPE AND LIMITATION OF THE STUDY

This study evaluates the conceptual adequacy of the Protection of Women from Domestic Violence Act, 2005, within the socio cultural context of Mizoram. The study commences with a historical analysis of the perpetuation of gender inequality in both Western and Indian jurisdictions. The primary objective is to analyze the international perspective and overview of international developments in addressing the issue of domestic violence against

women. To comprehend the Indian legal framework pertaining to domestic violence, a survey of the existing legal options is conducted. The diverse legal instruments and strategies along with their respective advantages and disadvantages are explored within the Mizoram cultural context, which constitutes the subsequent task undertaken by the study. The research assesses the impact of significant legislation on the positions of women who are victims of domestic violence in general legal regime. The study examines the functioning and challenges of the Act in the Indian cultural context, exploring its motivations and legal remedies. A comparative analysis of U.S and U.K models highlights the varying degrees of issues recognition in developed countries. The primary objective of the study is to identify loopholes in the current Indian Legal Framework to address the issues and propose suitable recommendations aligned with the cultural values. It also assess the problem areas and challenges in the Act's implementations. Due to inherent limitation in conducting an empirical study, the focus remains on a doctrinal analysis of the topic. Additionally, the availability of unreliable data on domestic violence, particularly regarding its invasion of familial privacy, poses a challenge. While exhaustive case illustrations on domestic violence are not discernible from Indian court judgements, brief discussions on the law and practices in other countries are provided for comparative analysis. The study's scope is extended to examining the law, its implementation and outcomes related to domestic violence. It does not delve into the multi- dimensional plight of victims including the physical and psychological impact of domestic violence on women and children. In essence, the study endeavors to review the historical and philosophical trends of domestic violence in India, examining the existing legal remedies to address this issue, assess the impact of the new Act on domestic violence and evaluate its effectiveness in achieving its objectives.

VII. CONCLUSION AND SUGGESTIONS

The extent to which domestic violence threats impede women's ability to assume a decisive role in their lives and a subsequent adverse impact on their human rights are a matter of profound concern within the democratic societies. Acknowledging the social costs associated with gender directed violence, international human rights instrument have taken up the cause, evidenced by various Conventions and treaties. The primary challenge lies in the integration of these principles into the national and domestic contexts. The International Human rights Instruments have consistently advocated for the principles of equality, liberty and fraternity among human beings. The right to marriage and the formation of families were prominently emphasized throughout the Convention and Treaties. While the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) played a significant role in promoting these ideals, it did not explicitly express the issue of domestic violence. General Recommendation No.19 of the CEDAW explicitly expressed the discrimination and violence, which gained global recognition. However the International Human Rights jurisprudence does not provide a comprehensive philosophical framework for maintaining family stability or the need to address the rights of women within a familial context. A legal training course for law students and lawyers is urgently needed to sensitize individuals to the traumatic stages of victims of domestic violence. This training should provide clinical education that empowers victims to process their experiences and develop self- guided resolutions. Clinical supervision collaboration with psychologists, and psychological counseling are essential components, helping

victims discern conflicting loyalties. The program aims to support victims in addressing their needs and seeking justice. Adapted to India's unique context, where women victims often desire to end violence without severing relationships, this program will meet their specific needs.

REFERENCES

- [1] Abbey, A. 1991 Misperceptions as an antecedent of acquaintance rape: A consequence of ambiguity in communication between men and women. Pp. 96-112 in A. Parrot and L. Bechhofer, eds., *Acquaintance Rape: The Hidden Crime*. New York: Wiley.
- [2] Abbey, A., L.T. Ross, and D. McDuffie 1995 Alcohol's role in sexual assault. In R.R. Watson, ed., *Drug and Alcohol Abuse Reviews*, Vol. 5: Addictive Behaviors in Women. Totowa, N.J.: Humana Press.
- [3] Abbott, J., R. Johnson, J. Koziol-McLain, and S.R. Lowenstein 1995 Domestic violence against women: Incidence and prevalence in an emergency room population. *Journal of the American Medical Association* 273(22):1763-1767.
- [4] Abel, G.G., J.L. Rouleau, and J. Cunningham-Rathner 1986 Sexually aggressive behavior. In W.J. Curran, A.L. McGarry, and S.A. Shah, eds., *Forensic Psychiatry and Psychology: Perspectives and Standards for Interdisciplinary Practice*. Philadelphia: F.A. Davis.
- [5] Bachman, R. 1994 *Violence Against Women: A National Crime Victimization Survey Report*. NCJ-145325. Washington, D.C.: Bureau of Justice Statistics, U.S. Department of Justice.
- [6] Bachman, R., and A.L. Coker 1995 Police involvement in domestic violence: The interactive effects of victim injury, offenders's history of violence, and race. *Violence and Victims* 10(2):91-106.
- [7] Bachman, R., and L.E. Saltzman 1995 *Violence Against Women: Estimates from the Redesigned Survey*. NCJ-154348. Washington, D.C.: Bureau of Justice Statistics, U.S. Department of Justice.