



DOMESTIC VIOLENCE - GS I AND II MAINS

Q. Why does developing countries like India push for capital expenditures reforms? Examine the necessity of this transformational shift from revenue to capital expenditure in the present context? (15 marks, 250 words)

News: *Domestic Violence Act applicable to all women irrespective of religion, social background: Delhi High Court*

What's in the news?

- The Delhi High Court reiterated the universality of the Protection of Women from Domestic Violence Act of 2005, emphasising its application to all women irrespective of their religious or social background.
- This affirmation came during the dismissal of a plea filed by a husband and his relatives challenging an appellate court order reinstating a domestic violence complaint filed by the wife.

Domestic Violence in India:

- In India, 32% of ever-married women reported experiencing physical, sexual, or emotional violence by their husbands in their lifetime.
- According to the National Family Health Survey-5 (NFHS-5), 2019-2021, 29.3% of married Indian women between the ages of 18 and 49 have encountered domestic or sexual violence; 3.1% of pregnant women aged 18 to 49 have faced physical violence during their pregnancy.
- This represents only the reported cases by women. There are often many more instances that go unreported to the police.
- According to NFHS data, 87% of married women who are victims of marital violence refrain from seeking help.

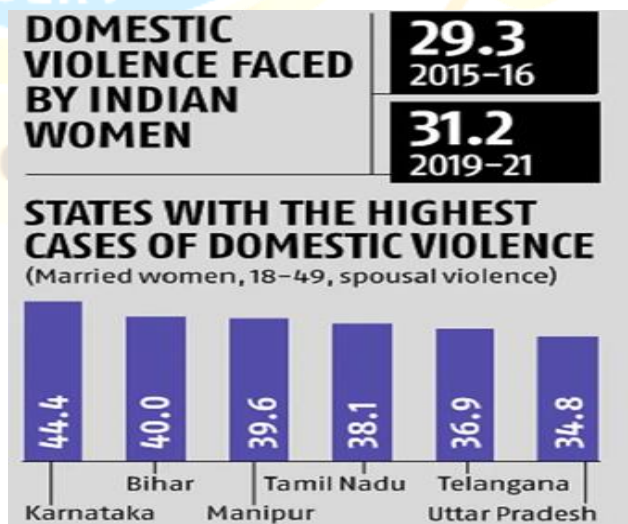
Factors Contributing to Domestic Violence:

1. Gender Disparities:

- India's significant gender gap, evident in global indices, fosters a sense of male superiority and entitlement.
- This perception can lead men to use violence as a means of asserting dominance and reinforcing their perceived superiority.

2. Substance Abuse:

- Alcohol or drug misuse can impair judgement and exacerbate violent





tendencies. Intoxication often leads to a loss of inhibitions, escalating conflicts into physical or verbal abuse.

3. Dowry Culture:

- The dowry system is strongly correlated with domestic violence, with instances of violence increasing when dowry expectations are not met.
- Despite legislation prohibiting dowry, such as the Dowry Prohibition Act 1961, cases of bride burning and violence related to dowry persist.

4. Sociocultural Norms:

- Traditional beliefs and practices perpetuate gender roles and power imbalances within households.
- Patriarchal systems prioritise male authority and control, often resulting in violence stemming from notions of ownership over women's bodies, labour, and reproductive rights.

5. Desire for Dominance:

- Some individuals may desire dominance and exert control over their partners due to feelings of insecurity or entitlement.
- Social conditioning often reinforces traditional gender roles and portrays marriage as the ultimate goal for women, discouraging them from leaving abusive relationships.

6. Socioeconomic Stressors:

- Poverty and unemployment can create additional stresses within households, increasing the likelihood of violent behaviour.

7. Mental Health Issues:

- Untreated mental health conditions such as depression, anxiety, or personality disorders can contribute to volatile behaviour.

8. Lack of Education and Awareness:

- Limited understanding of healthy relationship dynamics and rights can lead to the acceptance or normalisation of abusive behaviour.
- Many women lack awareness of their rights and available support services, perpetuating a cycle of low self-esteem and subjugation.

9. Domestic Abuse in the Context of Same-sex Relationships:

- Existing laws predominantly address heterosexual relationships, leaving same-sex partners vulnerable to domestic abuse without legal recourse.

Legal Frameworks Address Domestic Violence in India:

1. Protection of Women from Domestic Violence Act, 2005 (PWDVA):



- Designed to safeguard women from domestic violence encompassing physical, emotional, sexual, and economic abuse. It offers a range of protective orders, including those concerning residence and relief.

IMPORTANT PROVISIONS

Section 2(f)

Defines domestic relationship as a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family

Section 2(s)

Defines shared household as a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted...irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household

Section 3

Defines domestic violence as any act which "harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse"

Section 11

Requires central/state govt to give publicity to the law and create awareness among law enforcement and judicial officers

Section 17

Right to reside in a shared household

Section 18

A magistrate can issue a protection order which prohibits a respondent from committing domestic violence and other acts. Often called a stop violence order

Section 19

Residence orders restricting the respondent from removing the woman from a shared household can be issued

Section 20

A magistrate can offer monetary reliefs like compensation for loss of earnings or reimbursement of medical expenses owing to domestic violence

Section 21

A magistrate can issue temporary custody orders in favour of the woman

Section 22

A magistrate can issue additional compensation orders

Section 26

Freedom to move any court, including a magistrate/family/criminal court for relief

2. Indian Penal Code, 1860 (Section 498A):

- Addresses cruelty perpetrated by husbands or their relatives against women, making acts of cruelty, harassment, or torture punishable offenses.

3. Indian Evidence Act, 1872:

- Although not exclusively focused on domestic violence, this act establishes rules for evidence in legal proceedings, which are pertinent in cases involving domestic violence.

4. Dowry Prohibition Act, 1961:



- Targets dowry-related offences by criminalising the act of giving or receiving dowry.

5. Criminal Law (Amendment) Act, 2013 (Section 354A):

- Introduced amendments to the IPC to include new offenses related to sexual harassment, pertinent to cases of domestic violence.

6. Juvenile Justice (Care and Protection of Children) Act, 2015:

- Ensures the protection of children's rights and welfare, particularly relevant when children are victims of domestic violence.

7. National Commission for Women Act, 1990:

- Establishes the National Commission for Women (NCW) to safeguard women's rights, with a role in addressing domestic violence.

8. The Prohibition of Child Marriage Act, 2006:

- Aimed at preventing child marriages, particularly relevant when child brides experience domestic violence.

Global Initiatives:

1. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):

- Adopted by the UN General Assembly in 1979, CEDAW focuses on eradicating discrimination against women across various spheres of life.

2. UN Declaration on the Elimination of Violence against Women (DEVAW):

- Established in 1993, DEVAW is the first international instrument explicitly addressing violence against women, providing a framework for both national and international efforts to combat such violence.

3. Safe Cities and Safe Public Spaces:

- Led by UN Women, this initiative aims to prevent and address sexual harassment and other forms of violence against women and girls in public spaces.
- It collaborates with city governments, local communities, and civil society organisations to implement comprehensive strategies.

4. Beijing Platform for Action:

- Adopted in 1995, the Beijing Platform for Action outlines specific measures for governments to prevent and respond to violence against women and girls.
- It serves as a roadmap for advancing gender equality and women's empowerment globally.

Challenges Ahead:

1. Social:



- Many victims of domestic violence refrain from reporting due to societal stigma, fear of retaliation, or concerns about tarnishing family reputation.
- This reluctance poses challenges for authorities in taking action against perpetrators.

2. Underreporting:

- Domestic violence incidents are frequently underreported, as victims may not recognize certain behaviours as abusive or may normalise them, further complicating intervention efforts.

3. Lack of Awareness:

- A significant number of individuals, including victims, are unaware of their legal rights and available support resources.
- This lack of awareness hampers reporting and seeking legal assistance.

4. Dependency and Economic Factors:

- Victims often find themselves financially dependent on their abusers, leading to reluctance in seeking legal help due to fears of economic repercussions.

5. Inadequate Implementation and Training:

- Law enforcement agencies and judicial bodies may lack proper training in handling domestic violence cases, resulting in inconsistent enforcement of laws and challenges in providing effective support to victims.

6. Legal Hurdles:

- Proving domestic violence in court often requires substantial evidence, and the absence of witnesses or physical proof can weaken cases, impeding legal recourse for victims.

7. Complex Family Dynamics:

- Domestic violence frequently occurs within family units, complicating legal actions that may disrupt family relationships and deter victims from pursuing legal remedies.

8. Cultural and Regional Variations:

- Diverse cultural norms and practices influence perceptions and responses to domestic violence, necessitating enforcement strategies that consider these variations to effectively address the issue.

Way Forward:

- A transformative shift in attitudes towards gender roles and power dynamics is essential. Initiatives addressing both men and women are vital for promoting mutual respect and dismantling entrenched patriarchal norms.
- Mandate gender perspective training for stakeholders such as law enforcement, service providers, and magistrates. This training will cultivate empathy and ensure victim-centred approaches in addressing domestic violence cases.



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- Ensure victims have access to free or low-cost legal representation throughout the court process. This will facilitate their participation in legal proceedings and ensure their rights are protected.
- Implement programs aimed at equipping survivors with job training and financial literacy skills, fostering economic empowerment. This empowerment enables survivors to break free from economic dependence on abusers and rebuild their lives independently.



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