



## DOMESTIC VIOLENCE ACT: A SOCIAL LEGAL STUDY

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### INTRODUCTION :

Sociologists have portrayed women through various lenses. In India, historical narratives depict women as embodiments of divine power, yet the complex fabric of Indian society assigns them varying roles and statuses. Consequently, there is no singular position for women in Indian culture. However, civilization has shown an overall improvement in the status of women.

Historian Romilla Thaper notes that within the Indian subcontinent, there exist myriad variations in women's status, influenced by social customs, family structures, class dynamics, property rights, and ethical considerations.

Indian philosophy presents a dualistic view of women. On one hand, they are seen as nurturing, compassionate, and generous, while on the other hand, they are perceived as assertive and symbolize 'shakti' or power.

### Position of ladies in pre-freedom period:

To think about the situation of ladies before the autonomy time frame. It is important to talk about the situation of ladies amid the vedic period, post vedic period and medieval period.

1. **Vedic period**
2. **Post vedic period**
3. **Medieval period**

1. **Vedic period**— Undoubtedly, during the Vedic period, women enjoyed remarkable freedom and equality. They actively participated in various aspects of life, studying in Gurukuls and experiencing autonomy in all spheres. Prominent figures such as Apala, Visvara, Yamini, Gargi, and Ghosa garnered attention and emerged as leaders in society, mastering arts, music, and even warfare. In the Upanishads, the wife was portrayed as the true companion of her husband, blessed to live as a queen in his household according to the Rigveda, indicating a high status for women. In the Mahabharata, the wife was considered the foundation of prosperity, joy, and righteousness. Religious obligations were incomplete without the presence of one's wife. The practice of *pardah* was absent, allowing freedom in selecting life partners. Although polygamy and dowry were prevalent mainly among the ruling class, there were no restrictions on widow remarriage, and no discrimination between boys and girls. Consequently, girls were able to undergo the sacred thread ceremony (Upanayana Sanskar) freely.
2. **Post Vedic period** - During the post-Vedic era, women faced significant hardships and constraints, particularly as outlined by Manu, who sought to establish a male-dominated society by enhancing male authority. The birth of a girl was often viewed as a calamity for the family, leading to denial of educational opportunities and exclusion from the sacred thread ceremony (Upanayana Sanskar). This period witnessed the emergence of pre-puberty marriage practices, lowering the marriageable age for girls to as young as 9 or 10 years old. However, girls from the ruling class were sometimes afforded education and training in areas such as military science, administration, and the fine arts.

Daughters were raised under the authority of their fathers, then as wives to their husbands, and eventually as mothers to their sons. Interestingly, Manu emphasized the significance of respecting women, suggesting that where women are honored, all deities are pleased, while dishonoring them renders all religious activities fruitless.

Despite these challenges, the post-Vedic period also saw recognition of women's rights to property, with the concept of "Stridhan" prevailing. Manu defined "Stridhan" as property given to a woman before the nuptial fire, during the bridal procession, as a token of love, and received from her father, mother, brother, or husband.

3. **Medieval period**— The status of women deteriorated further during the medieval period, especially due to invasions by Alexander and the Huns in India. With invading soldiers causing security concerns and roaming the countryside, women were compelled to be veiled for

protection. Education and involvement in community affairs were denied to women during this time. Social ills such as child marriage, sati, and female infanticide proliferated significantly. Additionally, practices like Devdasi and polygamy became widespread in rural areas. Consequently, women faced oppression in all aspects of life during the medieval period.

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### Women's position during the British Period

Notably, in the British period the position of women had undergone drastic changes mainly due to western impact on the Indian socio-cultural pattern. The concept of equality, liberty and individual secularism although arose but limited to ruling class.

Two major movements took place during the British regime. These are:--

- I. **Social Reforms Movement, and**
- II. **Nationalist movement**

- I. **Social Reforms Movement** - Emerging in the 19th century, this movement advocated for the equal status of women. Social reformers expressed concerns about issues such as sati, restrictions on remarriage, lack of property rights, child marriage, and women's education. They believed that granting women access to education and enacting progressive legislation could bring about social reforms benefiting women. Figures like Swami Vivekananda, Dayanand Saraswati, and Annie Besant advocated for a return to the ideals of the ancient Vedic period, which they viewed as favorable to women's status. Mahatma Gandhi, often regarded as the father of the nation, vehemently criticized practices like child marriage, sati, the prohibition of widow remarriage, and the Devdasi system.
- II. **Nationalist Movement** - The nationalist movement drew the attention of a large number of people and generated confidence among women to raise their voice against oppressive system. In 1927, All India Women's conference was formed and it proved to be crucial movement towards the right equality of women.

As a result, several legislations were passed, such as the Widow Remarriage Act, Child Marriage Act, and Hindu Women's Right to Property Act, aimed at eliminating various social injustices. Additionally, industrial laws were amended to restore the status of women to that which existed during the Vedic period. Measures such as the establishment of creches, reduction of working hours, prohibition of night shifts, and restrictions on working in mines were implemented under the auspices of the nationalist movement.

It is asserted that during the British colonial era, there was an increase in public awareness, and women's political and social participation gained momentum.

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### Women's Movement

Various thinkers have propounded the women's subordination in different perceptions with different approaches. It is true that women have subordination rather lower status in the field of politics, economics and education. Even in society they have placed below the men. To end this subordination and different perceptions three major ideological movements of women emerged.

These are:--

1. **Liberal movement**
2. **Radical movement**
3. **Socialist movement**

1. **Liberal movement** – The feminist movement emerged during the 18th century, influenced by the Enlightenment period in Western thought. Many thinkers of this time engaged in debates regarding the nature, status, and role of women. The concept of individualism, which advocated for personal freedom without interference from others, gained prominence. Mary Wollstonecraft was a prominent and passionate advocate for women's causes. Her seminal work, "A Vindication of the Rights of Woman," published in 1792, argued that women are not solely sexual beings but are also human beings deserving of equal rights. Wollstonecraft emphasized that denying women equal human rights requires proving that they lack rational capacity, which she vehemently opposed.

Another staunch supporter of liberal feminism, John Stuart Mill, expressed the belief that the existing relationship between the sexes, with one sex legally subordinate to the other, is inherently wrong and a major obstacle to human progress. He advocated for the replacement of this unequal relationship with perfect equality, devoid of any power or privilege on either side.

During the liberal movement, it was widely accepted that husbands provided for the family's expenses while wives managed household affairs and expenditures. In sexual encounters between husband and wife, both were expected to play equal roles, although the level of pleasure might vary. It was believed that if a wife pursued employment, neglect of household responsibilities could result in imbalances in family nourishment and upbringing. Therefore, it was argued that women should have equal civil rights and access to education to contribute alongside men in building an ideal society.

2. **Radical Movement** - The second phase of the movement, occurring around 1969-1970, was closely linked to the liberal movement but addressed important issues that had been overlooked. Sexual oppression and the division of labor based on gender were key concerns that the liberal movement had not adequately addressed. It became evident that the root of women's subordination lay within the biological family structure. Mere legislative enactments were deemed insufficient; instead, societal attitudes needed reform through education and increased participation in politics and economics. True gender equality and the eradication of the patriarchal system were deemed essential goals. Critics argued that the nuclear family system hindered the full achievement of equality, thus distinguishing radical movement reformers from their liberal counterparts. Radical reformers advocated for the elimination of all gender distinctions, viewing men as adversaries and women's subordination as a form of male biopsychological supremacy. They championed collective child care, advocated for sexual freedom, and emphasized bodily autonomy. According to them, rape, pornography, and sexual violence stemmed from masculine hostility towards women. They believed that dismantling male dominance required a complete sexual revolution, and traditional sexual taboos could be abolished through solidarity within the women's movement.

Prominent figures among the radical movement reformers included Ellen Frankfort, Kate Millett, Firestone, and Germaine Greer.

3. **Socialist movement** - The thinkers of the sociological school and proponents of patriarchy, such as Karl Marx and Engels, advocated for a socialist model of movement.

The socialist model of society opposes both capitalism and the patriarchal system. However, the subjugated status of women cannot be eradicated unless the concept of a communist society is completely abolished. The introduction of private property, relegating women to the role of child producers, and the persistence of gender inequalities posed significant obstacles to the socialist movement for women. Consequently, Marxist theory was found to impose limitations on the political participation and representation of women.

Indian social reformers of the 19th century adopted a more liberal approach. They campaigned for women's right to education, aiming for women to become better mothers and wives. Additionally, they advocated for the elimination of social evils such as sati, child marriage, and the prohibition on widow remarriage. However, issues related to sexual freedom and sexual preferences could not be addressed to the same extent as in developed Western countries due to opposition from the fundamental concepts of Indian society.

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## CONCLUSION AND SUGGESTIONS

The whole exchange on the issue of aggressive behavior at home as contained in this work focuses round the way that while the issue is as old just like the establishment of family, the view of its dangerous angles is generally later. The most noticeably awful types of verbal, physical, mental and sexual viciousness are submitted against ladies in their homes. Foreswearing of nourishment, emphasis on unreasonable sexual direct, turning a lady out of house or limiting her in the house and denying access to minor kids establishes mental torment. While different types of torment are rehashed physical brutality or dangers to that impact, insulting the lady about her family, her fruitlessness or her bringing forth female newborn children just, voicing doubts about her treachery, preventing paternity from securing the youngsters particularly before the relatives, tanked conduct of the spouse ambushing kids to make mental anguish the mother.

Two low visibilities and the shut entryway character of the issue have impeded logical examinations. The measure of hard (solid) data on the extent of the issue is insufficient to the point that parcel numerous inquiries stay unanswered. The troubles emerge in light of the fact that casualties of abusive behavior at home are a diffused parcel and for the most part hesitant of grumble about their exploitation because of acknowledgment of the prevalence of the guilty party and due over their religious conviction, social demeanor and social standards. Their powerlessness to shout out and whine about their persecution and misuse is likewise because of their frail basic position emerging out of sexual orientation and age old incapacities. The persecution and misuse overflows out of the shut limits of the family just when something abnormal or sensational occurs, or when the episode gets answered to the police or it gets promoted in the print media. Being dealt with as a private undertaking (all things considered) the casual measures are favored over formal ones. The vast majority including criminal equity functionaries. Try not to need lawful mediation time and again. The general conviction is that law ought not be a to settle the private wrongs of the general population. The most favored reaction is the settlement of the issue inside the casual structures, in particular the family and its prompt references gatherings.

The criminal equity hardware, in the fundamental the police and the legal, regularly acts gradually, improperly and insufficiently in light of its own constraints. Legal has indicated

both positive and negative reaction towards brutality against ladies. Courts have indicated man centric and class biasness as well as worry against separation and for the privileges of ladies. It is additionally evident that now and again, judges have not shown affectability and awareness of other's expectations while managing instances of viciousness against ladies. This sex biasness isn't just reflected at the lower level of legal yet in addition in some of High Courts and unfortunately even in Supreme Court. In circumstances of aggressive behavior at home, courts have been more for trade off and alteration of the gatherings. It lays more accentuation on sparing the family establishments as opposed to sparing interests of the wrong ladies. The police tend to regard viciousness against ladies as "family issue" and are regularly hesitant to enroll the case itself. Other than this the propensity is to connect everyday mercilessness and mortification either to 'settlement' and property-related issues or separate and lawful divisions. The greatness of the issue is large to the point that police basically do parcel, at present, have the ability to address the issue. Besides and maybe more critically, they don't have the attitudinal reason for viable intercession.

Following are a couple of proposals which the scientists might want to advance for the change in the state of ladies:

- Removing failure of ladies to connect from behind the "shut entryway" of the family

- Sensitizing the general population through broad communications correspondence, for example, Radio, T.V, Newspaper, and so forth against the abuse with more attractive (inverse) sex.
- The premise explanation behind oppression of ladies in India is absence of training. Consequently endeavors ought to be made to teach them.
- Need for making ladies mindful of their rights.
- An incorporated and multi-disciplinary methodology with social laborers, legal counselor's clinicians is required.
- Active inclusion of NGOs in observing usage of various laws.
- Strengthening of law implementation hardware with the goal that law can be executed in letter and soul.
- Ensuring that individuals are in position to take response of laws.
- Last however not slightest is the job religious pioneer on the grounds that in a nation like India these religious pioneers have extraordinary impact on the general population. They should grant such religious lessons which decrease the thoroughness of oppression ladies.

The idea of division of common society into 'the general population circle' and the 'private circle' ought to likewise be rejected where matters identifying with the family are consigned to the private circle and henceforth not fitting for state intercession through proper arrangements and law.

The media engenders a separate and opprobrious state of mind towards ladies which ought to be debilitated. The presentation of ladies as 'sexual articles' in the ad ought to be restricted. All the broad communications passes on that ladies' position is just in the home and for the home. While men are depicted as fruitful experts. This legitimize manly strength, in the interim explicit entertainment exhibits a bundle bargain on ladies as sex objects and the normal belonging of men which additionally advances viciousness against ladies.