



PROTECTION TO VICTIMS OF DOMESTIC VIOLENCE: TRACING INTERNATIONAL NORMS AND STANDARDS

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ABSTRACT

: Violence against women has become a global problem. The developed and underdeveloped countries across the World are equally facing the brunt of this gender based violence. Owing to illiteracy, poverty, unawareness of human rights among women and their secondary status have been some of the contributory factors that triggers the violence against the most vulnerable section of all primitive and contemporary societies of the World. Since more than five decades, several norms, standards, modules, strategies and individual rapporteurs have been developed at international level laying emphasis how to counter the problem of domestic violence. All international human rights norms and standards furnish ample guidance and gave adequate recommendations to member states to combat this gender based violence in their respective countries. The objective of the present paper is therefore to make analysis of existing norms relevant in context of obliterating the violence. The paper also tenders some suggestions how member states can bring their municipal laws in tune with best international mandates on prevention of domestic violence.

KEYWORDS

Women, Violence, victims, International norms, Standards

A. INTRODUCTION

The Problem of Domestic Violence against women has become a global phenomenon. All countries whether developed or underdeveloped are equally facing the brunt of the problem. Millions of women in various countries across the globe are become victims of domestic violence such as physical torture, verbal abuse, mental cruelty, sexual abuse and intellectual abuse, etc. The problem becomes more serious in nature because most of the victims have been subjected to domestic violence within the four walls of their matrimonial homes. It happens everywhere but how it is actually manifested is very specific to a region or country. It is a complex issue as most often women do not feel that they are being abused. A fear of retaliation, guilt, shame and familial identity always make women less defiant to violence; making it a unvoiced crime. Since the problem has been acknowledged as serious in its dimensions and from women's point of view irrespective of their frontiers, it would be interesting to peep into the existing international norms and standards which are relevant in context of tackling the problem. The purpose of discussing international norms on domestic violence is to know to what extent international best defensive approach on domestic violence has been incorporated in domestic laws of various countries across the World including our. Therefore, the objective of the present paper is to analysis international normal and standards relevant to counter domestic violence and which furnish ample guidance to member states to bring their laws in tune with international mandate on domestic violence.

B. THE INTERNATIONAL NORMS AND SAFEGUARDS

The United Nations since its constitution in 1945 has always seemed stressing on urged women's rights regarding equality, security, liberty, integrity and dignity. The UN Decade for Women (1975-85) comprised 3 World Conferences for Women. The First World Conference on Women held in Mexico in 1975 focused on the need for the family to ensure dignity, equality and security of each of its members including women.

The Second World Conference on Women held in Copenhagen in 1980 on battered women and violence in the family. It referred to violence in the home in its final report and in the context of health care, called for the development of programmes to eliminate violence against women and children and to protect women from physical and mental abuse. Likewise, The Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1979 is the only one major UN human rights treaty devoted to ensure and promote the equality of women. This Convention is monitored by the Committee on the Elimination of

Discrimination Against women usually known as the CEDAW Committee. This Convention is an important human rights tool in countering violence against women. It also recommended effective legal measures such as penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence including violence and abuse in the family, sexual assault and sexual harassment in the work place.

The Third World Conference on Women held in Nairobi in 1985. The issue of VAW was more prominent in this Conference. The Nairobi Conference linked the promotion and maintenance of peace to the eradication of violence in the public and private spheres.

Likewise, the Vienna Declaration of 1993 specifically focused on issue of domestic violence. It specifically condemned gender based violence and all forms of sexual harassment and exploitation. It recognized the human rights of women as "an inalienable, integral and indivisible part of universal human rights. The Declaration states that full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the International community.¹ Similarly, the Vienna Declaration and Programme of Action of 1993 had also stressed on the human rights of women. The CEDAW of 1979 protocol is a mechanism that offers to the victims whose rights are violated the possibility of real remedy in two ways: through a complaint procedure which allows individual women and women's groups to file a complaint of violation of their or their rights directly to the Committee; and through an inquiry procedure.²

The UN Convention on the Rights of Child 1989 also states that children have certain rights regardless of "colour, language, religion, political or other opinion national, ethnic or social origin, property, disability, birth or other status".³ The Declaration on the Elimination of Violence against Women 1993 in its preamble specifies on the need to protect human rights of victims of domestic violence. It defines domestic violence as "any act of gender-based, violation that results in or is likely to result in physical, sexual, psychological harm or sufferings to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life."⁴

The Special Rapporteur on Violence against Women 1994 recommends measures to eliminate violence against women. Besides, above mentioned international norms and individual

rapporteurs, several Legislative Models/ Strategies have been formulated to confront the Offence of Domestic Violence. However, the Beijing World Conference on Women held in 1995 was major instrument to review and appraise the advancement of women. This Conference was the largest United Nations summit on women. In this conference particular emphasis had been given on poverty, education and training, wealth, violence, armed conflict, the economy, power and decision making, institutional mechanism for advancement of women, human rights, the media, the environment and girl child.

The recognition of gender-based violence as a form of gender discrimination thus provided a source of International legally-binding material dealing expressly with violence against women and the Declaration on the Elimination of Violence Against Women, together with the BPFA, provided both a benchmark from which International Standards and Norms might develop and a comprehensive set of strategies for achieving those objectives. Thus 1995 Beijing Declaration and Platform for Action were the first steps towards showing a strong commitment at the international level to combat VAW (domestic violence included).

Ms. Radhika Coomarswamy's Special Rapporteur on Violence against Women 1996 had written on violence in the family, violence in the community, violence against women during armed conflict and the problem of international trafficking. As a strong advocate on women's rights, she has intervened on behalf of women throughout the World seeking clarification from governments in cases involving domestic violence. Similarly, the Optional Protocol to the Convention on the Elimination of Discrimination against Women, 1999 condemned discrimination against women in all its forms. The Trafficking in Persons Protocol 2000 aimed to prohibit Human Trafficking. Also, the U.N Secretary-General Initiatives on Violence against Women, 2006 had stressed on various issues pertaining to violence against women. On July 6, 2006 then-U.N. Secretary-General Kofi Annan published an In-depth Study on All Forms of Violence against Women. The Study provided a statistical overview of types of VAW, including information on its causes and consequences. The U.N Campaign to End Violence against Women 2008 afforded protection to women victims of violence.

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) 2011 sets and calls for the implementation in Europe of legally binding Standards to prevent domestic violence. It is the first legally binding instrument in Europe creating a comprehensive legal framework to protect women against all forms of violence. One of the major features of the Convention is the abolishing laws and practices which discriminate against women.

The Convention defines "Violence against Women" as violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violation that result in, or are likely to result in physical, sexual, psychological, or economic harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.⁵

In addition to above mentioned International Norms/Standards to eliminate gender discrimination and VAW, there has been many more UN activities and mechanisms which address violence against women. International organizations such as the United Nations, the World Bank, and the Inter-American Development bank have placed the issue of violence against women on their agendas.⁶ The Department of Peace Keeping Operations, UNICEF and United Nations Development Fund for Women are major organization useful to eliminate violence against women. UNFPA (the United Nations Population Fund) is an international development agency that promotes the right of every woman.

C. CONCLUSION AND SUGGESTIONS

It becomes crystal clear that domestic violence is one of the most hatred crime perpetuated against the women across the world. It is

gender based violence and has affected the lives of millions of women and children. It not only endangered women's lives and impeded their full development i.e. physical, mental and spiritual but has also resulted into denial of several basic human rights to them. In various International human rights laws, Norms and Standards, the gender discrimination and gender violence has been recognized as major human rights violation of women. Therefore, violence against women must be addressed in the context of seeking to end all forms of discrimination, to advance gender equality and the empowerment of women and to create a world in which all women enjoy all their human rights.

Violence against women being universal problem required to be tackled through diverse strategies at global level. The International laws and human rights instruments in area of prevention of violence against women need to be incorporated in municipal laws of various countries in the World to tackle the menace of domestic violence effectively. It is responsibilities and duties of member States to combat and address violence against women. States have a duty to prevent acts of violence against women, to investigate and prosecute such acts swiftly when they occur and punish perpetrators without any fear or favour. Furthermore, there is an urgent need to provide remedies and redress grievances of victims of domestic violence on prompt basis by special courts preferably presided over by females. Ending violence against women has to be the slogan for all Nations of the World.

References

1. The Vienna Declaration and Programme of Action, part 1, para 18.
2. See, CEDAW, 1979, Art.8.
3. The Preamble of the Convention on Rights of Child.
4. The Declaration on the Elimination of Violence Against Women 1993, Art. 1.
5. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence 2011, Art.3.
6. See, Innocent Digest No.6 on "Domestic Violence Against Women and Girls," June 2000 at 19.