

Case Study

Domestic violence since dark ages till pandemic impacting the lives of women: Analyzing through the lens of ethical, Islamic and Pakistani legal law perspectives.

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Abstract

Background: Domestic violence is a public health issue across the globe. Almost one-third of women who have been in a relationship report that they have experienced some form of violence by their intimate partner in their lifetime. Domestic violence is viewed as a prevalent social and public health issue in Pakistan. Domestic violence includes intimate partner violence such as sexual or physical violence.

Case presentation: In this paper, domestic violence a real-life case scenario has been examined and analyzed from the lens of ethical, Islamic, and Pakistani law perspectives. Domestic violence's ethical and moral aspect has been studied in light of Kantian and ethical theories.

Management & Results: Domestic violence is not only disrespecting women's fundamental right to live, but it is also harming them in physical, social, mental and psychological aspects of health. Islam has completely forbidden any violence against women and encouraged men to be kind and respectful towards them.

Conclusion: This paper reveals the case study encountered, the position taken, supported by the ethical principles, the arguments and counter-arguments for examining domestic violence. Lastly, it is an individual's and our society's responsibility to work for the safety and promotion of women's empowerment in every stage of life.

Keywords

Domestic Violence, Justice, Non-Maleficence, Kantian Theory.

Case Study – A Real Life Scenario

A 14 years old adolescent came to the Emergency Room of a tertiary care hospital with a drug overdose, but she was unresponsive on arrival; her initial vitals were 65/30 mm/hg, pulse was weak 30 bpm. After managing symptomatic bradycardia and fluid resuscitation, the patient regained consciousness then she was shifted toward further management. It was revealed that the patient belongs to a middle-class family in an urban setting on history taking. Initially, the patient was hesitant to speak up about her self-intoxication. Later, when her mother entered her room with multiple bruises under her eyes and face, she broke into tears and eventually uttered that "I cannot tolerate my mother's humiliation anymore." Furthermore, she divulges that her father abuses her mother physically and verbally every day in front of her.

Domestic Violence

Domestic violence is reported worldwide; almost one-third of women who have been in a relationship report that they have experienced some form of physical and/or sexual violence by their intimate partner in their lifetime¹. According to literature², "Family and domestic violence are abusive behaviors in which one individual gains power over another individual." Domestic violence includes intimate partner violence such as sexual or physical violence. Similarly, child abuse, including physical or neglect of the child, is also a part of domestic violence. According to World Health Organization (WHO), there are many factors associated with domestic violence: low education, history of domestic violence exposure, harmful use of alcohol, community norms that treat men as superior, and low level for women paid employment¹. The woman involved in domestic violence suffers mainly from physical, psychological, and emotional aspects. Literature also determined that physically abused women were having not only facing physical trauma such as lethal injuries, lacerations, broken bones, contusions, and sexually transmitted infections but concurrently they have mental health problems such as anxiety, depression, substance abuse, eating disorders and post-traumatic stress disorder as well^{3,4}.

Arguments, Counter Arguments & Justification

Ethical Perspective

Ethics can be viewed as an integral part of our lives. It consists of moral values for being caring that can be practiced in community and health care. Ethical principles include autonomy, which is a simple term but is denoted by the freedom of thought and way of living, which is a fundamental right of any human being. In the same way, respect for people is the root of ethical principal. "The lack of respect for human dignity and rights is a core problem related to domestic violence"⁴. Similarly, ethical principles such as non-maleficence, beneficence, and justice are crucial while considering domestic violence.

Non-Maleficence

The principle of non-maleficence asserts "no harm." Harm to health because of domestic violence is physical violence, sexual violence, psychological violence, and economics⁵. It is also observed in low, middle-income countries (LMIC) that women are considered properties and treated like slaves.

Domestic Violence aimed at Coronavirus Disease 2019 (COVID-19)

In this current situation of COVID-19, domestic violence has taken its peak and can be seen in many faces of women, children, and the elderly who cannot leave their homes due to pandemic situations. According to Dr. Tedros Adhanom Ghebreyesus, Director-General of the WHO addressed at the platform that they need to provide shelter to those individuals who are experiencing domestic violence. Moreover, they state that "Violence has no place in our societies"⁶. Furthermore, the FIFA president added that they need to call their members to provide helplines and service support to help the domestic violence victims⁶. It shows that it is a common concern that needs to be acknowledged and act upon it.

The Kantian Theory says on Domestic Violence

According to Kantian theory, a person must act following his duty based on moral reasoning mitigating the actions. Additionally, he has also emphasized maintaining the dignity of others and

respecting their rights to being autonomous⁷. Relating this theory with the ethical issue of domestic violence, it is morally unacceptable to be physically abusive towards the partner and to violate their rights in any situation. Instead, the focus of Kantianism is to promote the rights of freedom and not harming others. Kant explained that moral obligations determine the value of an individual's action and that rule must be universally acceptable in all circumstances. Also, one of the categorical imperative comprises treating others in the same way that person wants them to be treated⁷. Thus, being physically or psychologically violent to the intimate partner is morally wrong, and it compromises the fulfillment of the principles of autonomy and justice of the spouse.

In contrast, people mostly misinterpret the values and basic rights of humans. Suppose someone is giving shelter to any child or a woman in their house. In that case, they seem to be the owner's property, and the owner of their house has the right to give physical, emotional, or psychological torture to that individual. According to the WHO, domestic violence has created economic and social deceleration as it has negative effects on society⁶. Women become more prone to inability to work, lack of motivation, participation in regular activities, and limited ability to care for themselves and their children, respectively.

Islamic Perspective

The teaching of Islam is based on peace and mercy. It encompasses all the ways of living a life as a Muslim and directs us at every stage. Islam has always taught Muslims to be respectful towards women in every relationship, whether she is a mother, sister, daughter, or wife. It has always supported for equal rights of both men and women. Literature supports that although men and women are non-identical, they are equal, so their rights are also equivalent to a man⁸.

Marriage is a sacred relationship between two individuals based on mutual respect, love, peace, and understanding. Both the persons involved in this pure bond are equally responsible for fulfilling the obligations attached to their role and

maintaining a balance in the relationship⁹. Islam has completely forbidden any sort of violence on women and encouraged men to be kind and respectful towards them as mentioned in the Quran that "O! You who believe! You are forbidden to inherit women against their will. Nor should you treat them with harshness; on the contrary, live with them on a footing of kindness and equity¹⁰. Moreover, the Holy Quran has also highlighted that "And they (women) have rights similar to those (of men) over them, and men are a degree above them. One which reflects that men are the protectors of women¹¹.

Nevertheless, Islam does not support violence against women, and it guides us in resolving the disputes. Islam has condemned the act of striking or beating women and instructed Muslims to resolve marital conflicts with peace, harmony, and kindness⁹. A study was conducted to identify the role of religious values on domestic violence. One of the themes highlights the interpretation of Islamic laws by men and religious scholars is according to their convenience for gaining the advantage of religion and abusing women¹².

Besides the misinterpretation of Islamic teachings, Muslim women demonstrate great value for the marriage from the Islamic and spiritual perspective. They attempt every possible intervention to protect their relationship even if it involves physical, sexual, or psychological abuse. Women tend to forgive their partner in fear of considering societal stigmas attached to a divorced woman or shame for being a woman who took legal steps against their husband. They believe that it will create a negative image of Islam and Muslims¹³. Thus, Islam has described in detail the integrity, respect, privileges, and dignity of a woman and strongly condemned physical abuse in a marital relationship.

Legal Perspective

Across the globe, Pakistan is considered an Islamic state with a Muslim majority. This is also well reflected in Pakistan's 1973 constitution. Pakistani legal structure is based on two key considerations: the constitutional law and the legal framework and they both are mutually framed in the light of

Shariah standards¹⁴. Domestic violence is viewed as a prevalent social and public health issue in Pakistan. Additionally, in August 2009, the National Assembly of Pakistan passed the Domestic Violence Bill, which gives a clear law statement that places provisions for the fortification and financial compensation for domestic violence sufferers¹⁴. Furthermore, punishment will also be imposed in the form of fines or imprisonment for violators.

On the flip side, most of the victims of violence have no legal choices. Unfortunately, Law establishments do not view domestic violence as a misdemeanor. The bitter reality is that the law enforcement personnel does not regard domestic violence as an offence; therefore, most of the cases are underreported¹⁴. According to the constitution of Pakistan, every person has a right to liberty and safety. Likewise, every individual is free to ask for legal aid to protect his/her life. Proper implementation of this law is indispensable to protect victims of domestic violence¹⁵.

Conclusion

Lastly, it is an individual's and our society's responsibility to work for the safety and promotion of women's empowerment at every stage of life. This write-up elaborated domestic violence in the light of Kantianism and ethical theories along with Islamic and Pakistani law perspectives. While looking at the WHO global data, women are still facing domestic violence. One could effortlessly figure out that in actual means, women are still not liberal in this modern society. The analysis of various stances helped us broaden our horizon of intelligence to view an ethical concern from multiple aspects of human life. While writing this paper, our minds were conflicting, and we were arguing and counter arguing with our inner consciousness. We also found this topic a very painful and true reflection of women's ethical and moral issues in our contemporary society. Regrettably, it is an unpleasant fact that one could not envisage that extremism regarding gender inequality can reach its highest peak. Autonomy, justice, and non-maleficence could not even get a chance to enter someone's life.

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