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### **Current family law concern – a need for creating legal awareness of domestic violence under the domestic violence act 1994 in malaysia**

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#### **Abstract**

Domestic Violence is social concern which is alarming and affecting the society of every nation. The offence occurs in the private sphere in mostly every country of the world and is also very common in Malaysia. Society may not be aware of laws on domestic violence, their legal rights and ways on how these rights can be exercised. Thus, this article intends to explore the issue of legal awareness provision meted in relation to the issue of domestic violence in Malaysia. This study expanded the call to execute and establish the provision on method to impart legal awareness for domestic violence crimes. A comparative legal research methodology is used in differentiating the position in Malaysia and certain selected jurisdiction. It is expected that the findings of this paper will look into the need to introduce and implement legal provision that deals with imparting and disseminating legal awareness pertaining to domestic violence in the society as empowering the society with legal awareness is essential to enable society to affirmatively claim their rights and seek proper and immediate protection.

## **Keywords**

Domestic Violence, Legal Awareness, Empowerment and Dissemination.

## **introduction**

Domestic violence being an offence that occurs in every part of the world and is perhaps one of the most deceitful form of gender violence [1]. Lopez and Bro opined that due to the increase in people losing jobs and shortage of resources available to the society has inevitably worsen domestic violence plight [2]. Government bodies should take necessary action to educate the public about their duties and rights in accordance with the law. Ignorance of the law pertaining to domestic violence will impact on the victims as well as on the abuser. It is necessary for society to speak and take necessary action to oppose to violence within a family [3]. The crux and essence of the law is definitely astray if the society does not know of their rights and liabilities [4]. Kumar believes that legal empowerment can only be achieved when the public is aware about their rights and entitlements [5].

Lack of knowledge about the basic legal knowledge on domestic violence threatens the safety of everyone [6]. Kaur and Grag opined that in order to address domestic violence need in a victim, programs are required that can focus on building self-esteem and independent ability; concerted and coordinated multisectoral efforts need to be introduced at the local and national level [7].

In Malaysia, in order to deter the problem on domestic violence, the Domestic Violence Act 1994 (Act No. 521) (hereafter referred to as the DVA 1994) was introduced by the Malaysian Parliament to assist the victims by providing legal protection, compensation and rehabilitation programmes in situations of domestic violence. Taking into consideration the importance to raise legal awareness, the Legal Aid sub-committee of the Melaka Bar did organised a Law Awareness and Legal Aid Campaign to elevate legal awareness among the members of the society on legal matters concerning their rights and liberties [8]. It is important that the public need to be educated and empowered of their legal rights, protection and consequences under the domestic violence law. Victims often are not familiar of their lawful rights under domestic violence. At times, victims may not even know the method of seeking protection under the act. Therefore, this article intends to fill the gap in the on-going investigation on domestic violence in Malaysia by considering its importance and practice in relation to the need to incorporate provision to impart and disseminate legal awareness with reference to the DVA 1994. A comparative legal research is carried out in comparing the positions in Malaysia and certain selected jurisdiction.

## **Research Problem**

This article focuses on the premise that the present law governing domestic violence does not adequately emphasize the need and importance of raising and

imparting legal awareness on domestic violence in Malaysia. An individual who is not aware and ignorant of his or her rights will certainly lessen their position to protect their rights. [9]. Having law without proper implementation and lacking of awareness from the citizens will lead to a failure of the legislation. [10]. Lack of knowledge about the victim's rights under the domestic violence law can be another significant barrier for the victims in seeking protection [11]. As such, during the lockdown, Women's Aid Organisation's (WAO) statistics showed a rise in hotline calls and WhatsApp enquiries on domestic violence; wherein it was reported by WAO that just before the lockdown, WAO received lesser calls and this number rose eventually during the lockdown period [12]. This clearly indicates that the wrought and concern of domestic violence has always been in existence regardless of the COVID-19 pandemic. The lockdown has seemed to fueled and worsen the situation of domestic violence. Victims being unaware of the law, help and support have created a barrier for the victims seeking protection.

### **Methodology**

This paper is based on a doctrinal study and critical analysis specifically relating to the law on domestic violence in Malaysia. A comparative legal research is applied in differentiating the positions in Malaysia with some selected jurisdiction. The central discussion of this paper is the need to incorporate provision to impart legal awareness in connection to the Malaysian Domestic Violence Act 1994. This paper emphasizes on the application of legal doctrines through analysis of statutory provisions. It deals with different aspects of law such as principles, theories and comparative status [13]. Doctrinal research involves analysis of case law with legal reasoning or rational deduction [14]. Comparative law is also an intrinsic part of legal research [15]. Hence, in this study reference is made with four developing Asian jurisdictions, Laos, Vietnam, Philippines and Punjab as these jurisdictions display a strong self-referencing in the context of Asian backdrop.

### **Awareness Strategies And Policies In Malaysia**

Certain strategies and policies have been implemented in Malaysia by ministry and relevant non-governmental organization (NGOs) to create and disseminate awareness against domestic violence. Under the Ministry of Women, Family and Community Development (MWFCD), a hotline number known as "Talian Kasih 15999" has been established to take all calls affecting women and children [16]. The One Stop Crisis Center services have also been established since 1996 within Emergency and Trauma Department, following the increasing number of cases of child abuse, domestic violence, rape & sexual abuse referred to government hospitals throughout the country [17]. A notable non-governmental organization (NGOs), Women's Aid Organisation (WAO) is also no exception in projecting to elevate awareness on gender equality by providing advice and support for domestic violence, rape, sexual assault, sexual harassment, and other forms of

violence against women [18]. The All Women 's Action Society (AWAM) an independent feminist non-profit organization, a leading non-governmental that also aids to provide women in need of support and bring awareness to public on issues concerning gender-based violence [19]. The Department of Islamic Development (JAKIM), meanwhile, launched its own helpline MyCareCov19 (03-887 0519 / 7752 / 7528) on 13 and 27 April [20].

### **Malaysian Domestic Violence Act 1994**

The Domestic Violence Act 1994 (DVA) is a federal law, which is applicable to all persons in Malaysia (Section 1(2) of the DVA 1994). The DVA 1994 is a comprehensive act which defines domestic violence and provides provisions for protection orders, compensation and rehabilitation programme.

The current 2018 revision to the DVA 1994 has introduced emergency protection order (EPO) which can be issued by the social welfare officer within two hours after the application has been made (Section 3(A)(1) & (5) of the DVA 1994). The advantage of the EPO is that it provides immediate provisional protection for victims without the need to lodge a police report or go to court (section 3A(6) of the DVA 1994).

Apart of the EPO, the DVA 1994 also provides protection in the form of Interim Protection Order (IPO) forbids the abuser from inflicting harm against the victim (section 4 of the DVA 1994) and Protection Order (PO) hinders the abuser to use domestic violence against the victim (section 5 of the DVA 1994). The IPO and the PO include certain orders under section 6 of the DVA 1994 such as complete dwelling to the complete dwelling of the shared accommodation to the victims; prohibiting the abuser entry to the house, workplace or school, any institution, going close by any victim; requiring the victim to set foot into the house escorted with an enforcement officer for the intention to collect personal belonging; requiring the abuser to make any communication with the victim and requiring the victim to carrying on using the vehicle which has previously been used. Victim who suffers personal injury may also claim for compensation concerning the injury or damage suffered (section 10 of the DVA 1994). Moreover, in relation to issuing a protection order, the court may also refer the parties to a rehabilitation programme (section 11 of the DVA 1994).

As spelled out under section 19 of the DVA 1994, an enforcement officer is under the duty to aid a victim of domestic violence to file an application of IPO, provide or arrange transport for the victim to a safe place or to the nearest hospital for treatment, explain to the victim the rights to protection against domestic violence and escorting the victim to the hose in order to collect the personal belonging. Under section 20 of the DVA 1994 the minister may make regulations for the purpose of carrying into effect the provision of the DVA 1994 by providing the prescribed forms of any information, report, application order or other document required pursuant to the act and also the procedure in respect of filing any of the documents.

As such, it is important for the government to take necessary initiative to promote equality and reduce domestic violence. Educating the public is an important strategy in order to lessen and intercept domestic violence, as by reminding people that a problem exist and at the same time showing them how to deal with the problem will enable them to take the right necessary action. Specific and immediate measures to raise community awareness is needed to create a safer abode for the victims and society.

### **Comparative Perspective**

In view of the seriousness of domestic violence offence, the law should be in the context-specific and well guided by gender-sensitive epistemic framework [21]. One important aspect that has been incorporated in the domestic violence legislations of many countries is intensive provision pertaining to legal awareness and education.

Responding to this move, in the Lao People Democratic Republic, under article 19 of the Law on Preventing and Combatting Violence against Women and Children it is the work of the State, individual, legal entities and all parts of society to elevate consciousness on halting and opposing ferocity against women and children and such awareness raising can be conducted by way of integration into the education curriculum, widespread and intensive awareness raising [22]. Interestingly, the law under article 27 of the Law on Preventing and Combatting Violence against Women and Children also creates a duty upon men to elevate the consciousness, strengthen the understanding on halting and fighting and form of violence against women and children. As such, the Law on Preventing and Combatting Violence against Women and Children in Laos places a duty upon the Lao Women's Union (article 62), the National Commission for the Advancement of Women and the National Commission for Mothers and Children (article 63), the Ministry of Labour and Social Welfare (article 64), Ministry of Health (article 65), Ministry of Education and Sports (article 66), Ministry of Information, Culture, and Tourism (article 67) and the Ministry of Justice (article 69) a duty to raise awareness, disseminate policies, laws and regulations on halting and fighting ferocity against women and children, upholding women's rights and safeguarding women from violence.

A collaborative action is seen in Laos to combat domestic violence in the society. Such collaboration is important as it can evolve and nurture efficacious deterrent methods and also ameliorate access to available assistance/aid involving domestic violence. Global partnerships are a good way to strengthen efforts to address domestic violence [23]. DV is an intensified matter that needs several sector feedbacks wherein each sector is mostly interacted within the vertical system [24].

In Vietnam, under article 9 of the Law on Domestic Violence Prevention and Control explains the aims and conditions of facts and communication on domestic violence elimination and dominance which specifically intends to moderately

eradicate domestic violence and elevate consciousness of good values of the Vietnamese people and families [25]. Article 10 of the Law on Domestic Violence Prevention and Control clearly details out the contents of information and communication on domestic violence prevention and control. Article 10 reads as:

Article 10. Contents of information and communication on domestic violence prevention and control

1. Policies and laws on domestic violence prevention and control, gender equality, rights and obligations of family members.
2. Good traditions and moral standards of the Vietnamese people and families
3. Negative impacts of domestic violence.
4. Measures, models and experiences in domestic violence prevention and control.
5. Knowledge of marriage and family issues; behavioural skills, cultural family building.
6. Other elements related to domestic violence prevention and control.

The Law on Domestic Violence Prevention and Control act in Vietnam also clearly dictates under article 11 on how knowledge on domestic violence prevention and control is to be disseminated. Article 11 reads as:

Article 11. Forms of information and communication on domestic violence prevention and control

1. Direct implementation
2. Through the mass media
3. Mainstreaming this issue into the teaching and learning programmes at training institutions of the national education system.
4. Through art, literature and community life or other popular cultural activities.

On 9 September 2011, the Government of Viet Nam has joined forces with United Nation Office on Drugs and Crime (UNODC) to escalate awareness of the peril of domestic violence and to motivate member of the society and families to speak out against such violence by organising a comprehensive campaign entitled "Say No to Domestic Violence" in which the people to part in a writing and painting competition on the theme of gender-based violence and violence against children [26]. Such competition which provided prizes to the winning entries work as a form of encouragement for the public to voice out their concerns. Thus, it clear that in Vietnam measures have been taken to promote the prevention of domestic violence by involving the general public about the consequences of the violence to the family.

Moreover, media intervention to create legal awareness reaches to a wide range of people and can help to change the perception of society through media campaign, competitions and communal discourse and debates.

In Punjab, under section 3(d) and (e) of the Punjab Protection of Women against Violence Act 2016 it is the duty of the Government to arrange for wide publicity of this Act and create awareness among the public [27]. It is the duty of the government to establish system that can refine and produce a society that is aware of the issues concerning women.

Enthrallingly, under section 23(1) of the Punjab Protection of Women against Violence Act 2016, the government has the power to publish details of any domestic violence case on its website accessible to the public free of cost. However, under section 23(2) the government will not publish any information to ensure the safety, security, privacy and dignity of a woman or an aggrieved person and to prevent any form of prejudice to the investigation of the case.

In Punjab, the government has taken an intense move by publishing details of the domestic violence case to create the legal awareness. A daunting move as such may look intimidating but it certainly recognises and directs the necessity to eliminate domestic violence and promote gender sensitization.

In Philippines, under section 32 of the Republic Act 9262: Anti-Violence Against Women and Their Children Act of 2004, the government agencies work closely with local government units (LGUs) to establish programs towards educating the public on domestic violence [28].

According to study conducted by Caparas & Amparado there is a notable connection between the modes of Information, Education and Communication (IEC) showed extent of consciousness of the respondents on Anti-Violence Against Women and Their Children Act of 2004 and such awareness is very essential and essential to necessary to secure and safeguarding women and their children [29].

Thus, collaboration between every department in the government and non-government agencies are notably essential to create the awareness of any law. Inter-agency collaboration can help to intensify and ameliorate the outcomes.

## **Discussion**

Empowering the society with proper legal awareness will optimistically seek to stimulate the confidence in every citizen and enhancing the skills that they have within them, as such honing and glazing these skills in an individual is only possible by education and awareness. It is apparent in order to intervene and steer clear of social concerns in the society, intercession should involve by supplying information on laws and also by educating the society on methods and ways to acquire assistance.

Haiba & Matar recommended two ways to spread the culture of respecting law which are firstly by developing curriculum in school to teach children to respect law and secondly by proper nurturing and upbringing of children by the family to respect others [30]. Focusing on creating legal awareness at the school levels leads to the start of primary prevention measurements in eradicating wrongdoings.

By promoting legal awareness on domestic violence among the society is a proper move to elevate this issue at the national level and make it clear that domestic, family or sexual violence is unacceptable in any circumstances. A survey conducted found that people become aware of their legal rights essentially through the TV and radio and in addition this has been corroborated by focus groups who recommends media programs that portrays plays, dramas and stories which carries legal ideas are more unforgettable as compared to campaigns on particular legal or civic education topics based on the "letter of the law" [31].

Public awareness in understanding domestic violence is important in order to combat this social ill. Randawar & Najibah sternly believes that great emphasis needs to be placed to convince the society that domestic violence is indeed a serious issue which requires attention [32]. Conservative beliefs about privacy, sanctity of marriage, shame and fear compound the difficulty in victims seeking assistance. Heightening awareness on the impact of domestic violence to the public will enable the society to respond appropriately to the support systems that are available such as the legal system, the welfare departments, police and hospitals. The absence of legal awareness was the "root cause" of "deception, exploitation and deprivation" of the entitlement and welfare of the masses [33].

Inter government coordination and collaboration is an important strategy which can be employed to improve the quality and enhance the coordination between agencies and services dealing with domestic violence issues. Such collaboration will allow all agencies and services that deals with domestic violence to take on policies, procedures, programs, trainings, actions, schemes in line with a specific goal. Collaborative efforts and proper coordination by all agencies ensure smoother and faster outcomes for victims of domestic violence.

Besides, engaging men to promote non-violence as seen in Laos is certainly required in order to combat domestic violence. Programs promoting and encouraging family values is essential to focus on father's involvement in the nurturing and caring of the child. Thus, men need to be seen as part of the solution. Men promoting gender equality and fighting to eradicate domestic violence is great divergent strategy to address domestic violence. Violence prevention and intervention should start from home. In order to raise legal awareness and promote access to justice among society it is recommended to raise community awareness, especially among men [34].

## **Conclusion**

The family is the basic social unit in every society. Domestic violence may be a private family issue but its impact that has the capacity to give a negative consequence upon the society. In considering this, the government should take positive steps to intercede in preventing and responding to domestic violence.

Many countries have emphasizes the importance of creating awareness and educating and training members of the public on the subject of domestic violence and the incorporation of these efforts in their legislation indicates that there is sensitivity towards this issue in those jurisdictions.

Several strategies and methods can be employed by the government to enhance legal awareness among the public. Society which is legally empowered creates a transparency and accountability in justice. By incorporating legal provision on imparting and disseminating of legal awareness under the Malaysian domestic violence act supports sustainable peace at the grassroot level and can help victims to reach to a better-informed decision. By bringing domestic violence issues to open will directly give a message to the public that such crimes are unwarranted and should not be condoned by any individual.



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