Cat's Eye

DOMESTIC VIOLENCE - THE RICE POT BOILS OVER

There is an old saying that has been frequently bandied about to dismiss violence in the home and to critique the laws enacted to prevent domestic violence in Sri Lanka. The adage *"anger between a husband and wife is only until the pot of rice gets cooked"* is probably true in many small arguments between husbands and wives, but what is its significance in real domestic violence disputes?

Statistical data and anecdotal information on domestic violence show a high prevalence of domestic violence in Sri Lanka and that the majority of these victims are women. Studies reveal that 60% of women in Sri Lanka face some form of domestic violence during their lives. Domestic violence is defined as "violence perpetrated in the domestic sphere, which targets women because of their role within that sphere, or violence which is intended to impact, directly and negatively on women within the domestic sphere." Domestic violence can include physical, emotional, sexual and economic violence, which can impact on victims (both direct victims and their children) with life-threatening and long-term harm.

Women's Crisis Centres and Police Women and Children's Desks as well as Mediation Boards, Grama Niladharis, newspapers, community organizations and even faith-based groups can provide extensive evidence of domestic violence incidents that do not cease when the 'pot of rice is boiled.' They are incidents of severe physical, sexual, and emotional abuse – of real women with broken bones, burnt torsos, hacked and mutilated bodies, traumatized, victimized, and tortured as defined in Sri Lanka's anti-torture laws. These incidents involve women and their children. These are not disputes that came up when the pot of rice was placed on the fire and these are not disputes that end when the rice cooked.

Mechanisms for Prevention

We have many redress mechanisms that address family disputes; the police, mediation boards, counsellors at Divisional Secretariat offices, family elders, community leaders... the list is vast and their services are greatly valuable despite gaps in ideological approaches and space for improvement. These address small remediable disputes and help families reconcile their differences and promote conciliation.

In contrast, laws on preventing domestic violence are meant to address a whole different gamut of violent crimes between husbands and wives. In a society where the family is upheld as the most sacred social institution, it is not pleasant to consider that within the walls of some families, women are abused in inhuman ways. For over a century, Sri Lanka hid behind the provision that women abused by their husbands can access punitive justice via the Penal Code which lists some offences that describe domestic violence disputes. But no women came forward and no cases went to court under the Penal Code, not because there was no violence being perpetrated within families, but because of this very same sentiment - that domestic disputes should be kept domestic and it was wrong as the Sinhala saying goes to "*spread home fires to the outside world…*"

Lobbying Against Domestic Violence

Sri Lanka considers domestic violence as a grave social issue that requires multi-focal strategic interventions. Sri Lanka's commitment to the UN Declaration on the Elimination of Violence Against Women (DEVAW) accepts that "violence against women is acts that result in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". The Sri Lanka Women's Charter endorses this recognition and in response the National Committee

on Women has spearheaded the Sri Lanka action plan on preventing domestic violence. The State, nongovernmental, professional, service sectors and academia provide multi-faceted initiatives aimed at addressing and reducing domestic violence. These institutions have repeatedly argued for the need for extensive strategic and long-term programming to address gender-based violence as urgent at all levels of society from policy level to community level.

As a result of strong lobbying by civil society organizations strengthened by research carried out by institutions and individual academics, the Prevention of Domestic Violence Act was enacted in September 2005. Until the enactment of the Act, domestic violence was virtually an invisible phenomenon in Sri Lanka, unrecognized by the State and accepted as the norm by society at large. With the passing of the Act, for the first time in the history of the country's laws, domestic violence was accepted as a crime from which victims were to be protected.

The Law

With the institution of the Prevention of Domestic Violence Act, the laws that deal with the phenomenon in Sri Lanka became twofold; by way of the Prevention of Domestic Violence Act and by the Penal Code. The Prevention of Domestic Violence Act No 34 of 2005 provides for protective measures where a victim of domestic violence can access the formal legal system to obtain a Protective Order from courts of law. The description of domestic violence in the Act recognizes several offences against the body of a person which are already included in the Penal Code as well as those of emotional abuse (a pattern of cruel, inhuman, degrading or humiliating conduct of a serious nature directed towards an aggrieved person). In terms of the Penal Code recognition, the State can file action against a perpetrator of domestic violence under the country's general penal laws.

Despite this visibility and recognition of domestic violence as a crime, actually addressing the issue still remains a problem that is clouded by society's expectations of the gendered identities, roles and behaviour of women/men and of socio-cultural norms. Research shows that the *burden of stigma, social and economic vulnerabilities, the lack of formal protection systems and supportive access to justice, and socialization processes that minimize the gravity of domestic violence are significant factors that prevent women recognizing, reporting and taking action on domestic violence.*

For those women who have the strength to break the silence on domestic violence, the formal courts of law offer protection for victims and punitive action can be taken against perpetrators. Yet many are unable to actually access the formal justice system because the first points of entry for redress (largely the Police and public officers in the community such as Grama Niladharis), often discourage remedial action on the basis of solving the dispute and keeping the 'family together.' Here the Police and public officers play an informal (and therefore untrained) counselling/mediating role of using their personal life skills and perceptions of dispute resolution and family harmony to provide immediate 'relief' to victims. Or the victims and perpetrator are referred to community mediation boards.

The key feature in the PDV Act is that it provides for a protective remedy and not a punitive course of action – as it concentrates on keeping women safe rather than on punishing the perpetrators. The provision of the Act, that enables a court order to prevent a violent member from causing further harm by keeping him out of the home and away from the victim, is seen as 'breaking up families.' It would of course be worthwhile to consider whether families are 'broken up' by continuing violence or whether they are 'broken up' by the effort to live violence-free – a fundamental human right?
Or as argued by Prof. Savitri Goonesekere: "Helping women facing gender based violence to end this violence does not mean breaking up a family unit. When there is violence in the home, the family is already broken. Even though a husband and wife live under the same roof and share a child or children, if the wife is being subject to violence, the family is already torn apart. Helping this woman to end the violence she is experiencing will save her life and the lives of her children. It will help preserve her family."

Supporting the Law

The sporadic debates on the law as 'drastic,' laws that break up families and help wives push husbands out of the marital home, become irrelevant for two reasons. One-because the laws prevent women and children from life-threatening situations; if placed outside the domestic sphere, these crimes would carry prison sentences, fines and compensation for victims. Two, the laws that address domestic violence are aimed primarily at protecting victims

who are largely women and children. In a country which is proud of protecting its women, these laws should not place anyone on the defensive or warrant criticism on its negative influence on family peace.

Therefore the current arguments on the overcrowding of Sri Lankan prisons as well as the drain on State funds to implement punitive measures and rehabilitation are not valid claims when it comes to perpetrators of domestic violence given the severity of the crime. These violent acts, if committed by a person on a person outside of a home and a family relationship, would not warrant any discussion on the repealing of the Act or the pardoning of perpetrators.

It may be timelier to recognize that those who violate the very people they are supposed to love and honor, and who are their closest and dearest, may be affected by alcoholism, or a particular mental disability. Furthermore, patriarchy–the unequal power structures with certain homes and family relationships–can also be the cause and result of domestic violence.

Rather than cloak these issues in simplistic discussions relating to family harmony and rice pots, are we ready to take forward the recognition and commitment once made by the State to look into the more serious issues surrounding domestic violence? Or are we going to let the majority of women facing domestic violence situations within their homes fend for themselves? ■

Courtesy *Sunday Island*