

## “Domestic Violence in India”

*\*Sanjoli Verma*

*Hidayatullah National Law University,  
Raipur*

*\*\*Varsha Mathur*

*Hidayatullah National Law University,  
Raipur*

Domestic violence is yet another evil which persists in our society. It is not like other crimes as it does not need a vacuum to happen. It sure as fire that it never takes at a wrong place at a wrong time. Unlike other crimes against women, the violence comes from a known person only but today men are also the victims of this atrocious crime. In many cases it is kept hidden as a skeleton in the closet by the victim itself because of the fear of being left all alone or even worse such as a life threat. Some reasons why women stay in such kind of hostile and abusive relationship environments, can be low self-esteem, patriarchy, isolation, family pressure and lack of community and family support. They drown themselves in self-blame, confusion, guilt and shame. Married women are not welcomed after divorce, so to protect their livelihood they tend to live in such conditions. A very aggressive behaviour can also lead to fatal injuries which may or not be the reason of death of the victim. Apart from physical violence, it includes isolation from family, friends and employment; constant surveillance, restriction on accesses to basic necessities as food, clothing etc. and strict rules for behavior.

The proper broad definition of domestic violence is given by section 3 Domestic Violence Act 2005, but it is generally referred to any behaviour by one person over other person to gain control and power over weaker person. Abuse is a learnt behaviour and thus it can not be caused by mental problem, anger, drugs or alcohol. It can happen with wife, girlfriend, daughter or children. It is done by victims domestic circle.<sup>1</sup>

### **Types of domestic abuse**

Domestic violence happens specially with women, girls and children. There are many types of abuses which women face. Physical abuse is inflicted on the victim by hitting, beating. Sexual abuse can be done by forcing the victim to do some sexual act forcefully and rape. Abuse can also be emotional & mental in which the victim can't get out even if they want to and thus gets exploited by getting humiliated, negating, controlled, publicly embarrassed, demeaned and criticised. Economic abuse happens when abuser control & limits the access to individual or shared assets, limits future, present or past earning potentials of the victim. In abuse an abuser tries to separate victim from her own rights, choices and her own resources and isolates the victim socially & financially, thus forcing dependency on victim.

---

<sup>1</sup> <https://www.shethepeople.tv/law-and-her/domestic-violence-and-connected-laws-indian-women-should-know-of/>

## How it creeps up

In India, domestic violence against wives is a right which is exercised by men with impunity, on the other hand inception is that womanhood is respected . There is a misconception which is widely spread regarding the true status of women Thus this intimate terrorism does not see what class of society the victim is a part of. According to the reports of National Family Health Survey 4, which was released by union health ministry, every 3rd woman - since the age of 15 has faced domestic violence in various forms. It also found that 31% of married women have experienced physical, sexual or emotional violence by their spouses. The survey was carried out in 29 states in which Bihar was found to be the most violent state, followed by Madhya Pradesh and Rajasthan. There can be a lot reason so as to why relationships don't workout but when turns into abuse and violence, getting out of such relationships should be the right decision rather than thinking that the society won't accept the victim's decision. <sup>2</sup>

A big reason of domestic violence is lack of physical and moral education in the up bringing off the child and the environment in which they live in. Sometimes victims don't even realize that the kind of behavior they are experiencing is indeed a domestic violence .In Indian societies facts and realities are totally different like it exists in every strata of society. Some women who have better sense of her rights try to leave but some actively try to leave step-by-step with vigilance to do everything so they can escape without alarming the abuser, and while some victims don't even try to escape thinking that life like this is part of every women's life. None of this shocking as many societies don't recognise domestic violence wrong for the most part of human history. Disciplining the wife or children were more or less the same manner as the abuser might control his slave, animals and servants. It is an old age phenomenon against women, where they are considered weak , vulnerable and are exploited. Culture, religious, economic practices and political conditions might set the precedents but ultimately committing this act is a choice of the abuser which is made out of a range of options. Gender imbalance and a rigid set role of women is related to difference in the physical size and strength. <sup>3</sup>

Women and children are generally poorly equipped to protect , the position of women in past was same as it is in present nothing has changed. The image of ideal women is that who never tries to break the stereotype bonds of control.

## Effects of domestic violence

Domestic Violence has a significant impact on the well being and health of women and their children both in the short and long term ,The trend of such violence has been highlighted by movies and short films such as "Thappar" & "Listen to her". India's National Crime Record Bureau stated that total 89.097 cases were recorded in 2018. While domestic violence hits all races, religions and social-economic status. It is often very difficult for a victim sometimes to tell other people and ask

---

<sup>2</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2784629/>

<sup>3</sup> <https://www.theatlantic.com/family/archive/2019/05/no-visible-bruises-domestic-violence/588631/>

for their help, that are being abused domestically by spouse. In many cases when abusers get to know that victim is crying out for help, they tend to become a serious life threat for the victims life, as they can cause harm to victim more. For example, a movement in Canada as arose where a victim can silently ask for help by first open ing palm of their hand and then making it a fist with thumb over it. Such signs allow them to ask for help without letting their abusers know about the same.<sup>4</sup> Increased number of cases have been reported due to lockdown amid **corona virus crisis** around the world. In times like this more care and awareness should be put together. Normally victim has the option of staying elsewhere but that option is not available right now.

There are many cases, where a girl is beaten up the male members of the society for indiscipline such as falling in love with someone, or running away or sometimes even asking for her rights. Abuse in romantic relationships is also as prevalent as being abused by father or other male member of the family. LGBTQ people to face challenges which are unique in nature to cope up with the domestic-abuse victimisation.

### **The legal aid**

Domestic violence is global issue and protection against domestic violence is a basic human right. Indian law has taken few steps to protect victims and discourage domestic violence. It is very sad that women need protection in their own homes.

The **Protection of Women from Domestic Violence Act 2005** was implemented to protect women. It provided appointing of protection officers and NGOs to provide aid and assistance. It provides the respondent with a cognizable and non-bailable offence punishment. Though **section 498A of Indian penal code** is slightly different from section 3 of the former act. **Section 498A of IPC** is a criminal law applies to husband or relatives of husband who show cruelty to women. They can get imprisoned for upto 3 years under this law. Under this woman can get financial compensation and the right to live in shared household and can get maintenance from their abusers if living apart.

The Indian parliament also passed a new law with the goal of protecting women from sexual offences, it was called as **Criminal Law (Amendment) Act 2013 which further amended the Indian Evidence Act 1872, Code of Criminal Procedure 1973, Indian Penal Code and the POCSO act 2012.**<sup>5</sup>

The government also passed the **Dowry Prohibition Act** provides strong protection to women in cases where women are harassed and tortured over the demand of dowry. The offender can be imprisoned for 6 months or more than that and can be fined up to INR 5,000. Such practises of domestic violence is against the fundamental rights of the **Constitution of India under Articles 21,12,14 and 15**. The right to be free of violence was established in the case of **Francis Coralie Mullin v. Union Territory Delhi, Administrator**, where the court states that any act act of

---

<sup>4</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2331015](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2331015)

<sup>5</sup> [indiankanoon.org](http://indiankanoon.org)

damage, injuries or interference with the use of any part of body either permanently or temporarily would be inconsistent with Article 21.

The right to dignity was established in **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan**, where the court said that the right to life includes the right to live with human dignity in its ambit, which in turn would include humiliating sexual and emotional abuse too.

In the case of **Chameli Singh v. State of U.P** it was held that the right to life includes right to shelter too while distinguishing matter at hand from the case of **Gauri Shankar v. Union of India**

**Section 125 of Code of Criminal Procedure** provides for maintenance and compensations to victims. Article 253 of the constitution provides parliament the power to make laws according to the International treaties, conventions etc. The **United Nations Committee on the CEDAW** passed a Domestic violence Act, which encompasses with all the provisions of the Specific Recommendations, which in turn form a part of **General Recommendation no.19, 1992**.

**Article 14** provides equal protection of law but permit classification for legislative purpose to empower weaker sections of the society but prohibits class legislation. A law new or old, if is inconsistent to the structure or existing provisions go the Indian Constitution, becomes void and invalid straight away, as stated by the case of **Royappa v. State of Tamil Nadu**.<sup>6</sup>

### **Suggestion and Conclusion**

The UN Declaration on the Elimination of Violence against Women(1993) states that “violence against women is a manifestation of historically unequal power relation between men women ,which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women , and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate positions compared with men”. As we are developing, this evil is also developing with new forms and techniques which disturbs the peace of society . Though it is necessary to implement strict rules for the protection of women and making them strong should be prima facie, it should also be seen that these laws are not being misused by the fake victim. To tackle this issue social media and other institutions have developed a sign language through which the victim can use to ask for help by not alerting their abusers. In India due to obvious reasons, the laws are biased which makes men vulnerable in few cases. Women sometimes use these biased laws to harass men falsely. There incidents of section 498A of IPC being misused. The laws by and large are valuable pieces of legislation. To eliminate such evils from the society it is very important to patriarchy thinking of men. It will reduce the concept of gender inequality. Effective support systems should be found for such victims and the respondents should be punished strictly. Many NGOs and rehabilitation centres are now set up to provide support to the victims who have left their abusers and provide legal, social and economical aid to the victims who are planning to leave such abusers behind and the victims should be given proper

---

<sup>6</sup> <http://www.legalserviceindia.com/articles/dmt.htm>

awareness about the rights. Family members can help reduce this evil and help in primitive preventions and cautions for the same. Domestic Violence is not something new which is emerging in the society and not like a new gadget coming in the society, it is present in all the ages.