

DOMESTIC VIOLENCE IN INDIA

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ABSTRACT

Women in India constitute nearly half of its population and it is very common to read news about violation or wrong committed on women every day. Although we have entered into a new millennium, the women of the patriarchal setup of Indian society continue to be oppressed and ill-treated. They are subjected to great extent of atrocity both inside and outside their homes in contemporary India. Our orthodox society is so prejudiced by age-old habits and customs that a violated woman, whether she is forced or helpless, has no place in the society. The fact that domestic violence has been reported in several civilizations and societies around the globe provides evidence of its pervasiveness. There is a growing understanding that Domestic Violence is a widespread phenomenon and a significant problem in developing nations as well. Yet, depending on the local environment, it exhibits specific forms and patterns and is acknowledged as a significant public health issue. Despite the wide variety of abuse, it is the most frequent reason for non-fatal injuries to women. These victims suffer, place the responsibility on themselves, and decide not to disclose the abuse. In fact, women frequently internalize the abuse by justifying it and accepting it as their fate in order to continue living with it by thinking that the act was initiated by the woman. India has been no exception to this increasing culture of domestic violence. Tgis paper aims to analyse the reasons, safeguards and current situation of domestic violence in India.

Keywords: Violence, Crime, Penalty, Harassment, Cruelty

Introduction

The Committee on Family Violence of the National Institute of Mental Health of America (1992)⁵⁰ included in its definition of violence "acts that are physically and emotionally harmful or that carry the potential to cause physical harm [and] may also include sexual coercion or assaults, physical intimidation, threats to kill or to harm, restraint of normal activities or freedom, and denial of access to resources.

Domestic violence has become a major concern in India due to various socio-cultural and economic factors. In India, there is a prevailing patriarchal mindset that views men as the head of the family and women as subordinate. This mindset often leads to discrimination against women and makes them vulnerable to domestic violence. Traditional gender roles in India often restrict women to the domestic sphere and limit their opportunities for education and employment. This dependence on men makes it difficult for women to leave abusive relationships. A patriarchal mindset is one that places men in positions of power and authority over women, and it is a deeply ingrained cultural norm in many parts of India. Unfortunately, this mindset can lead to domestic violence in several ways. Men with a patriarchal mindset often believe that they should have complete control over their wives and children. This can lead to them using physical violence, emotional abuse, and other forms of coercion to maintain this control. In a patriarchal society, men may see themselves as superior and women as inferior. This can lead

⁵⁰ <https://www.nih.gov/about-nih/what-we-do/nih-almanac/national-institute-mental-health-nimh>

to the belief that women "deserve" to be punished for disobedience or "bad behavior," including through physical violence. Domestic violence is often normalized in patriarchal societies, with women expected to endure it quietly as part of their duty to their husbands and families. This can make it difficult for victims to seek help or escape their abusers. Patriarchal societies may also lack the legal and social structures needed to protect women from domestic violence. This can include inadequate laws, poor enforcement, and a lack of social support for victims. The dowry system is still prevalent in many parts of India, where a bride's family is expected to provide money, gifts, or property to the groom's family. In cases where the dowry is not deemed sufficient, it can lead to physical and emotional abuse of the bride.

Despite having laws in place, domestic violence is often not reported or punished in India. This is partly due to a lack of awareness about the laws and also because of the slow pace of justice in the country. There is a social stigma attached to being a victim of domestic violence, and it is often seen as a private matter to be dealt with within the family. This makes it difficult for victims to seek help and support. Overall, domestic violence has become a concern in India due to a combination of cultural, social, and legal factors. Efforts are being made to address this issue, including increased awareness campaigns, legal reforms, and support services for victims.

Causes attributing to Domestic Violence in India

The phrase "domestic violence" most frequently refers to violence committed within a married relationship, where one party—typically a man or his family—uses a pattern of physical abuse and intimidating behaviors to exert dominance and control over the other partner, who is generally a woman. As was already established, victims of this form of assault are typically women. The majority of women deal with this as a common household issue and

decide to remain silent out of respect for their families' reputation. Domestic violence does not occur on an automatic basis or in a one-time instance. It is a continuous process that affects not only the woman but practically everyone who is experiencing violence, whether it be a child, an elderly person, or a husband. The abusive spouse or person adopts this behavior for several reasons, including to instill fear or domination over others. According to UNICEF's global report card ⁵¹on adolescents 2012, 53% of girls and 57% of boys in India think a husband is justified in hitting or beating his wife.

A. Patriarchal Culture

India has a long-standing patriarchal culture where men are considered the head of the household and are expected to exert control over their family members, including their spouse and children. This mindset often leads to the justification of violence against women. Patriarchal culture in India places men in a position of power and control over women, which can lead to domestic violence. Women are often expected to be submissive and obedient to men, and any defiance or assertion of their own autonomy can be met with violence. In many households, men believe that they have the right to discipline their wives or daughters as they see fit, and physical violence is often used as a means of punishment or control. Additionally, women who challenge the traditional gender roles or seek to pursue their own aspirations may be subjected to emotional or verbal abuse. This reinforces the belief that men are superior to women and that violence is an acceptable means of maintaining that power dynamic. Furthermore, societal attitudes towards domestic violence in India often trivialize and dismiss the issue, leading to a culture of impunity where perpetrators feel they can get away with their actions. Overall, patriarchal cultural norms in India contribute significantly to domestic violence by perpetuating harmful gender stereotypes and

⁵¹ <https://www.unicef-irc.org/publications/series/report-card/>

legitimizing the use of violence against women as a means of control.

B. Economic Dependency

Women in India are often economically dependent on their husbands or families, making it difficult for them to leave abusive situations. Financial insecurity can also make it difficult for women to seek legal assistance or counseling. Economic dependency can be a significant factor in leading to domestic violence in India. In many households, women are dependent on their husbands or male family members for financial support, as they may not have access to education or employment opportunities due to cultural or societal barriers. This economic dependence can create a power imbalance in the household, where the husband or male family member may feel entitled to control the finances and make all decisions regarding the family's financial matters.

In cases where the husband or male family member is abusive, the economic dependence of women can make it difficult for them to leave the abusive relationship. Without financial resources, they may not have the means to support themselves or their children, and may feel trapped in the abusive relationship. Additionally, women may fear social stigma and ostracization if they leave their husbands, as divorce and remarriage are not widely accepted in many communities in India. This economic dependence can also lead to other forms of abuse, such as emotional and psychological abuse, as the abuser may use financial control as a tool to manipulate and intimidate the victim. This can create a cycle of abuse, where the victim may feel powerless and unable to escape the situation.

C. Gender based Discrimination

Discrimination against women and girls in India is pervasive and occurs in various forms, including discrimination in education, employment, and inheritance. This often leads to the subjugation of women, making them

vulnerable to violence and abuse. Gender discrimination in India is deeply entrenched and can manifest in various forms, including social, economic, and political spheres. One of the most devastating consequences of gender discrimination is domestic violence, particularly against women. Women in India often experience gender-based discrimination, including unequal access to education, employment, and healthcare. This discrimination can lead to economic and social disempowerment, making women more vulnerable to domestic violence.

In addition to economic and social disempowerment, gender discrimination in India also perpetuates cultural norms and beliefs that normalize violence against women. In many parts of the country, women are still viewed as inferior to men and are expected to be subservient to their husbands and other male family members. This gendered power dynamic can create an environment where violence against women is tolerated and even condoned.

Furthermore, gender discrimination can also contribute to a lack of legal protection for women who are victims of domestic violence. In India, there are still significant gaps in the implementation and enforcement of laws designed to protect women from violence, including the Protection of Women from Domestic Violence Act. This lack of legal protection can leave women trapped in abusive relationships with no way out.

D. Social Norms

Social norms around marriage and family, such as the expectation that women should prioritize their family's needs over their own, can lead to the normalization of violence against women. Alcohol abuse is a common problem in India, and it is often cited as a factor in domestic violence cases. Domestic violence in India is a complex issue influenced by various factors, including social norms. One significant social norm that can contribute to domestic violence

in India is the patriarchy. The patriarchal system in India assigns men the role of being the head of the household, and women are expected to be submissive and obedient to them. This social norm often leads to the normalization of violence against women and perpetuates the idea that men have the right to control and dominate women. Additionally, there are cultural beliefs that justify domestic violence, such as the idea that a wife should be beaten if she disobeys her husband or if she fails to fulfill her marital duties. These cultural beliefs often prevent women from seeking help or leaving abusive relationships. Overall, social norms that perpetuate gender inequality and reinforce harmful beliefs about women's roles and responsibilities can contribute to domestic violence in India.

Many people in India are not aware of the legal and social implications of domestic violence, which can lead to a lack of reporting and accountability.

Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 provides a legal framework for protecting women who are victims of domestic violence. It defines domestic violence broadly to include physical, emotional, sexual, verbal, and economic abuse. The act enables women to seek a range of reliefs, such as protection orders, residence orders, monetary reliefs, and custody orders, from a civil court. It also imposes criminal liability on those who violate the court's protection orders. The act also empowers police officers and protection officers to assist women in distress and take appropriate steps to ensure their safety. Overall, the act provides a comprehensive mechanism for addressing domestic violence against women and ensures that they have access to effective remedies and support.

This law was passed by the Indian Parliament to safeguard women from domestic abuse. It outlaws a variety of physical, sexual, emotional,

and financial abuse of women, all of which are clearly defined by the Act. It protects women in a household from the male members of the family. The Act's protection extends to live-in partners as well as married women, as well as other family members like mothers, grandmothers, and other female relatives. According to this Act, a woman has the right to be free from all forms of violence. This law gives women the right to seek protection from domestic violence, financial compensation, the right to live in their shared home, and maintenance payments from their attacker.

The Act, in theory, does a lot to safeguard women in home settings. It is the first significant step toward eliminating the dubious public/private dichotomy that has been historically upheld in the law and has been repeatedly contested by feminists. Undoubtedly, in incidents of domestic violence, women may previously file a court case under the Indian Penal Code (IPC). However, this Act's scope is broader than the IPC due to the types of domestic abuse it considers and the victims it recognizes. The IPC never referred to this offensive behavior as domestic violence. In reality, the IPC only addressed one related category of offenses: cruelty to married women. Without regard to the victim's gender, any other occurrences of domestic violence within the home had to be prosecuted as the separate crimes that the acts of violence under the IPC constituted.

The Indian Penal Code, 1860

The Indian Penal Code provides various provisions to protect women from domestic violence. Here are some of the ways in which the Indian Penal Code protects women from domestic violence:

Section 498A⁵²: This section deals with the offence of cruelty by the husband or his relatives towards a married woman. It punishes those who subject a woman to cruelty, either

⁵² Indian Penal Code, 1860, §(498 A)

mental or physical, with imprisonment of up to three years and fine. The Indian Penal Code was amended in 1983 to include an unique Section 498A that made domestic violence a crime in India. The law's specific provision addresses abuse of married women by their spouses or the families of their husbands. This section states that "*Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*" If a husband or a member of his family treats a woman brutally, it is against the law which is punishable under this section. Harassment of a wife for dowry by her husband or his relatives is considered a crime under Section 498A of the IPC. This bullying may take any form, either mental or physical. Forced intercourse with one's wife might be considered cruelty under this Section even if marital rape is not regarded as a crime in India. The reach of Section 498A is very broad. It also covers all deliberate acts committed against women that force them to put their lives, their limbs, or their general health in danger. Here, physical and mental wellness are incorporated.

Section 304B⁵³: This section deals with dowry death. It provides for punishment of up to life imprisonment for causing the death of a woman due to dowry demands. Section 304B of the Indian Penal Code (IPC) pertains to the offence of cruelty by husband or his relatives. This section states that any husband or his relative who subjects a woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to pay a fine.

The term "cruelty" has been defined under this section to include any willful conduct that is likely to cause injury or harm to the woman, with the intent to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to

meet such demand. This includes physical abuse, emotional abuse, and harassment. Thus, Section 304B of IPC provides legal protection to women against domestic violence inflicted by their husbands or relatives.

Section 354A⁵⁴: This section deals with sexual harassment and provides for punishment of up to three years for outraging the modesty of a woman. Section 354A of the Indian Penal Code (IPC) deals with sexual harassment and provides protection to women from various forms of sexual harassment. It was added to the IPC in 2013 by the Criminal Law (Amendment) Act, 2013, in response to the growing concerns about the safety and security of women in India.

Section 354A defines sexual harassment as any unwelcome physical contact or advances, or a demand or request for sexual favors, or making sexually colored remarks or gestures, or showing pornography against the will of a woman, or making sexually explicit remarks or gestures in the presence of a woman. It also includes stalking, both physical and virtual, and any act or behavior that has the effect of humiliating, intimidating or outraging the modesty of a woman.

Section 354A is an important provision in the Indian Penal Code as it provides a strong legal framework to prevent and punish sexual harassment and ensure the safety and security of women, particularly in the context of domestic violence. However, it is important to note that effective implementation and enforcement of the law is essential to ensure its efficacy.

Judicial Perspective on Domestic Violence in India

On July 9, 2019, Judge Mitra issued the ruling in the case ***Smt. Haimanti Mal v. The State of West Bengal***⁵⁵. The wife was given Rs. 1,000,000 as compensation by the Calcutta High Court for the mental suffering she endured as a result of

⁵³ Indian Penal Code, 1860, §(340 B)

⁵⁴ Indian Penal Code, 1860, §(354 A)

⁵⁵ Smt. Haimanti Mal v. The State of West Bengal, C.R.R. 3907 of 2016

the husband's actions. Yet, the award of compensation cannot be justified in the absence of any documentation or supporting proof. Section 22 of the Protection of Women from Domestic Violence Act, 2005 speaks about compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by the respondent.

Ajay Kumar v. Lata alias Sharuti⁵⁶, which was filed on April 8, 2019, was heard by Justices Dr. Dhananjaya Y. Chandrachud and Hemant Gupta. According to the proviso to section 2(q) of the Protection of Women from Domestic Violence Act, 2005, both an aggrieved wife and a woman in a marriage-like relationship have the right to submit a complaint against the husband's or male partner's family member, as appropriate.

On July 1, 2019, Judge Sanjeev Sachdeva issued the ruling in the case **Manju Sharma v. Vipin**⁵⁷. When the Delhi High Court discovered that the husband was hiding his genuine income despite having an alleged yearly turnover of Rs. 1 crore, it increased the maintenance to be paid to the wife. In consideration of the needs of the petitioner and her daughter, the interim support was increased from Rs. 10,000 per month to Rs. 30,000 per month.

On June 18, 2019, Judge Awasthi issued a ruling in the case **Kuldeep Singh vs. Rekha**⁵⁸. According to the Madhya Pradesh High Court, if the wife and husband leave the joint houses to start their own, the domestic relationship ends about the parents, hence a complaint under the DV Act cannot be brought against them. The first prerequisite for eligibility under the Domestic Violence Act is that the applicant must be an aggrieved person, as defined in Section 2(a) of the Act. To invoke the Domestic

Violence Act, there must be a domestic relationship between the victim and the respondent.

In **Sandhya Wankhede v. Manoj Bhimrao Wankhede**⁵⁹, the appellant Sandhya lived with R1, R2, and R3 for almost a year after getting married in 2005, which caused problems in her marriage due to constant disturbance. She then filed a police report against her husband under section 498 of the Indian Penal Code for assaulting her.

In this instance, the Supreme Court had noted and held that the provision section 2(q) did not exclude women who are partners or relatives of the husband from the purview of a complaint that might be made under the Domestic Violence Act, 2005. According to the findings, complaints not only cannot be made against adult women in addition to adult men.

The Protection of Women from Domestic Violence Act, 2005's applicable remedies are not barred by the mere granting of a "maintenance" order under Section 125 of the Code of Criminal Procedure, according to the Supreme Court. A special leave plea against Delhi was denied by the justices Indira Banerjee and Dhananjaya Y. Chandrachud-led bench. In a landmark decision, the Supreme Court determined that the protections provided to a married woman under the domestic violence statute by a criminal court are "relevant" and can be taken into account even in civil proceedings trying to evict her from the marital home. In detail about the provisions of the Protection of Women from Domestic Violence Act, 2005, the apex court said, "The progress of any society depends on its ability to protect and promote the rights of its women."

Suggestions and the way forward

Domestic violence is a serious issue in India, and reducing it requires a multi-pronged approach that involves various stakeholders.

⁵⁶ Ajay Kumar v. Lata alias Sharuti, CRIMINAL APPEAL NO(S). 617 OF 2019

⁵⁷ Manju Sharma v. Vipin, CRL.REV. P. 103/2015

⁵⁸ Kuldeep Singh vs. Rekha, MCRC-5644-2016

⁵⁹ Sandhya Wankhede v. Manoj Bhimrao Wankhede, CrI. W.P. No.588 of 2009

Here are some suggestions that can help in reducing domestic violence in India: Raise awareness: One of the most effective ways to reduce domestic violence is to raise awareness about its negative impact on individuals, families, and society. Public campaigns, social media, and educational programs can be used to spread awareness about the consequences of domestic violence and the legal options available to survivors.

Empower women: Women's empowerment is crucial in reducing domestic violence. This can be achieved by providing education, skill-building, and economic opportunities to women. Women's economic empowerment can help reduce their dependence on their partners and give them more control over their lives. Strengthen legal framework: The legal framework for domestic violence needs to be strengthened to ensure that perpetrators are held accountable for their actions. Laws should be more stringent and better enforced, and legal aid should be more accessible to survivors.

Provide counseling and support: Counseling and support services can help survivors of domestic violence cope with their trauma and rebuild their lives. Government and non-governmental organizations can provide counseling and support services to survivors and their families. Encourage reporting: Many cases of domestic violence go unreported due to fear, shame, or lack of awareness. Encouraging reporting and providing protection to survivors can help reduce domestic violence. Involve men: Men can play a crucial role in reducing domestic violence by being allies and speaking out against it. Programs that engage men in discussions and education about gender-based violence can be helpful in reducing domestic violence. Overall, reducing domestic violence in India requires a comprehensive approach that involves raising awareness, empowering women, strengthening the legal framework, providing counseling and

support, encouraging reporting, and involving men.

Conclusion

There is violence against women everywhere, regardless of age, ethnicity, class, culture, or level of education. The silence and apathy of the state's instruments of power and the legal system when domestic violence happens effectively condones the abuse. There needs to be a significant change in the sociocultural environment because it is discovered to be deeply ingrained in those practices and is taken for granted by both the perpetrator and the victim. To address the issue, social norms and attitudes regarding gender roles need to be changed in order to make it easier to implement meaningful and appropriate responses to domestic violence and, ultimately, to prevent it from occurring at all.

Domestic violence is not unique to India, nor is it a recent occurrence. Nevertheless, what is remarkable about India is that society does not support its eradication and does not view it as a major problem. What has changed recently is the fortitude of women to confront domestic violence—not just those who are victims themselves and are aware of the negative effects that "coming public" will have on their lives, but also those who are part of organized groups. This bold effort to expose domestic violence has opened the door for a national discussion on the subject against the backdrop of India's patriarchal social structure, history of familial piety, and uneven gender expectations.

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