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A CRITICAL OVERVIEW OF DOMESTIC VIOLENCE IN INDIA

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ABSTRACT :

Domestic violence is a crime and a common dilemma that may affect more than a quarter of women. It is widely acknowledged that violence against women is fundamentally a result of gender-based inequalities, more than the product of any other individual or social factor. Therefore, one would anticipate violence against women to be more common in societies where gender roles are severely defined and particularly among couples where men control the wealth and the decision-making process (Ellsberg & Heise, 2005). Women experience a variety of health and social problems in connection with domestic violence, including depression, anxiety, substance abuse and pregnancy complications.

There are several different aspects of domestic violence that include: physical, sexual, psychological, verbal, emotional, and economical. Research is needed to establish the prevalence of domestic violence in women presenting to general practice and to investigate how the problem is currently being addressed.

INTRODUCTION

Domestic violence is defined as the threat or exercise of physical, psychological, and/or emotional violence; i.e., any type of force against another person with the intent of inflicting harm or exercising power and control over them. The perpetrator belongs to the victim's "domestic environment": an intimate partner, husband, former intimate partner, family member, friend or acquaintance. Included among friends or acquaintances of the family, are those who maintain a friendly relationship to the victim and encounter her in a domestic setting. Whether or not the victim actually lives in the same household as the perpetrator is not crucial for the definition of domestic violence; the term is defined by the closeness of the relationship between perpetrator and abused victim.

The two terms "domestic violence" and "violence in the immediate social environment" are used synonymously and focus on violence between adults. Violence by parents or parent-proxies against children (child abuse) is treated, both legally as well as in social science research, as an independent problem and is not included in the definition of "domestic violence".

As a rule, domestic violence does not describe a single violent event, but rather a complex system of abuse that can include physical, psychological and sexual violence. Despite the neutral definition of domestic violence, it mostly involves gender-specific violence based on inequality between the sexes. This is elucidated by the term "gender violence" as coined by C. Hagemann-White, which includes all forms of injury inflicted against the physical and emotional integrity of another that are associated with power and gender, and the exploitation of a physical or other form of power.¹

It is known that the forms of violence differ between men and women. Men are more often affected by violence carried out in public places, whereas women experience violence more often within close social relationships. It was shown that in 99% of the cases, violence against women is carried out by men.

Domestic violence refers to violent acts committed by a family or a household member against another, such as child abuse or the beating of one's partner. Domestic violence can refer to physical harm forced on a member of a household or family, by another member of the same household or family.

Domestic violence is now commonly defined mainly to include "all acts of physical, sexual, psychological or economic violence" It can happen to anyone and affects the victim of any age, gender, or financial and economic standing. It includes behaviour like attempts to scare, physically harm, or control a partner and many more. Domestic violence doesn't refer only to physical violence only but the mental torture also.²

¹ Domestic violence, available at: <https://www.legalserviceindia.com/legal/article-10907-causes-of-domestic-violence-in-india.html> (last visited on May 10, 2025)

² Types of Domestic Violence, available at: <https://www.legalserviceindia.com/legal/article-10907-causes-of-domestic-violence-in-india.html> (last visited May 10, 2025)

TYPES OF DOMESTIC VIOLENCE ARE –

- **Physical Abuse:** A physically hostile behaviour can be referred to as physical abuse. It includes harmful behaviours and a threat of physical abuse. It consists of activities like kicking, hitting, slapping, burning, a restriction against someone's will, and also showing aggression during any conversation and so on.
- **Sexual Abuse:** It refers to the exploitation during the sex or forcing someone for sex without their will. It includes both verbal and physical abuse. It also includes reproductive rights, such as protective use of contraceptive methods and forcing an abortion.
- **Emotional Abuse:** Any behaviour that uses another's weakness, insecurity, or character is emotional abuse. It happens during the abusive type of relationship. It includes constant criticism, name-calling, embarrassing, teasing, and humiliating.
- **Verbal and emotional abuse:** Verbal abuse includes remarks/threats made by the domestic relations during domestic violence against women. Verbal abuse further leads to emotional abuse and in an incredibly common form of domestic violence from the human rights perspective. The combination of verbal and emotional abuse leads to psychological abuse and erodes a woman's sense of self-worth.
- **Isolation:** Preventing you from seeing family, friends, or attending social events.
- **Control:** Eliminating freedom by controlling you from making your own choices, checking up on you obsessively, dictating your clothing or style choices, or using your children as leverage.
- **Male privilege:** Adhering to cultural beliefs that men must be dominant over women.
- **Economic:** Your partner has complete control over your spending and income, or squanders money on nonessentials.
- **Violence Against Women Womb to Tomb:** Before birth, as many as 5 million girls in India are aborted by sex-selective abortion. If her mother is beaten, the unborn child can be harmed in the womb, born underweight or miscarried.

In India, thousands of girl's child may suffer from female infanticide in every year. In childhood, she may suffer physical, sexual, or psychological abuse at the hands of her elders. As a wife, she was abused by her husband and her in-laws.³

SIGNS OF DOMESTIC ABUSE:

Because domestic abuse can be subtle and complex, you may not be sure whether what you're experiencing qualifies as abuse.

- Domestic abuse can be much more than physical violence. Even if they don't cause you physical harm, controlling or dominating behaviours can still be considered domestic abuse.

- **Signs of financial abuse:**

All the finances are under your partner's name.

You're not allowed to work or have income.

- **Signs of sexual abuse:**

You're forced into sexual acts or sex work.

You're harmed during intimacy or sexually assaulted

- **Signs of physical abuse:**

You're forced or pressured into taking substances non consensually.

Your partner withholds food, water, or prevents sleep.

- **Signs of emotional abuse:**

Your partner is excessively jealous.

Your partner makes you feel as though you deserved to be punished.

Your partner devalues or dismisses your beliefs.⁴

- **Signs of verbal abuse:**

Your partner yells, screams, or rages at you.

Your partner insults and demeans you.

- **Signs of control and isolation:**

You're not allowed to see family and friends.

³ Sign of Domestic violence, *available at:* <https://www.womenagainstabuse.org/education-resources/learn-about-abuse/types-of-domestic-violence> (last visited on May 10, 2025)

⁴ Sign of Domestic violence, *available at:* <https://www.ncdv.org.uk/signs-of-domestic-abuse-violence/> (last visited on May 10, 2025)

Your partner stops you from attending social events.⁵

CAUSES OF DOMESTIC VIOLENCE

Main factors effecting:

- **Cultural Factors:** Cultural Factors leading to domestic violence include the desire for a male child. This obsession resulting from the lack of awareness and inherent male superiority leads to perpetration of domestic violence against women. This is not an exhaustive list of factors and the motivations or triggers behind domestic violence may vary.
- **Dowry:** Dowry is a form of socio-cultural factor. But, it becomes important to separately mention it because of the rampant domestic violence cases resulting from illegal demand of dowry. This was realised by the Parliament also because dowry- related domestic violence has been made a separate head in the scope of abuse resulting in domestic violence under the Domestic Violence Act.
- **Sociological/Behavioural Factors:** The sociological, behavioural and cultural factors include factors like anger issues/aggressive attitude, poverty/economic hardship, difference in status, controlling/dominating nature, drug addiction, upbringing and psychological instability (bipolarism, depression, stress, etc.) among others. Neglect of conjugal responsibilities due to extra-marital affairs or lack of trust also contributes to domestic violence.
- **Historical Factors:** Historical factors can be traced back to the inherent evil of patriarchy and superiority complex that has prevailed for centuries among men.
- **Religious Factors:** A subtle form of domination on women, if not direct and glaring, reflects in the religious sanctifications. This also contributes to perpetration of domestic violence against women.
- **Poverty:** When a person is not able to meet even a two square, he may get aggressive and violence and this leads to domestic violence often against woman.
- **Drug Addiction:** Alcohol and other chemical substances may contribute to violent behaviour. A drunk or high person will be less likely to control his violent impulse.
- **Irresponsible/Careless partners:** Partners who are irresponsible/careless with respect to conjugal/marital responsibilities such as work, purchase of necessary goods, construction of house, payment of bills, responsibility for children's education/schooling may be one of the causes of domestic violence.
- **Stress:** Stress is considered as a cause of domestic violence. A person can be under stress due to responsibilities at home or can be some problems at work. This person has a tendency to be violent towards the partner.⁶

Some other factors:

Domestic violence can be varied and individual, and there is no one cause of domestic violence.

It's important to remember that domestic violence is a choice, not an uncontrolled impulse. A survivor's actions cannot cause abusive behaviour.

If you are experiencing domestic violence, you are never to blame. You can't "make" someone abuse you, no matter what an abuser may say.

Even if you could do everything possible to please an abusive partner, their need to control you will likely still show itself through their behaviour eventually.

In some cases, intimate partner abuse can be influenced by situations, including your own state of behavioural well-being. For example, if you and your partner both experience tendencies toward domestic violence, the situation may quickly spiral out of control.

Children who witness domestic abuse may grow up thinking physical or psychological violence are acceptable ways to solve conflict. In the same way, raising children to believe a different gender is inferior may result in exhibiting controlling behaviour later in life.

EFFECT OF DOMESTIC VIOLENCE:

The effects of domestic violence on women go beyond the immediate physical injuries they suffer at the hands of their abusers.

Domestic violence survivors suffer from an array of psychosomatic illnesses, eating disorders, insomnia, gastrointestinal disturbances, generalized chronic pain, and devastating mental health problems like posttraumatic stress disorder (PTSD).

⁵ Causes of Domestic violence, available at: <https://ncadv.org/signs-of-abuse>
(last visited on May 10, 2025)

⁶ Factors of Domestic violence, available at: <https://www.legalserviceindia.com/legal/article-10907-causes-of-domestic-violence-in-india.html>
(last visited on May 10, 2025)

Many abused women find it difficult to function in their daily lives because of the effects of domestic violence. Absences from work, due to injuries or visits to the doctor, often cause them to lose their jobs, making them less able to leave their abusive situations.

They may feel ashamed that their partners abuse them, see themselves as unworthy of love, and suffer from a significantly diminished self-perception. Because of their feelings of low self-worth, these women become isolated from friends and family and do not participate in social activities common to others in their demographic.⁷

Domestic violence can cause physical and emotional harm to children and young people in the following ways:

- develop phobias and insomnia
- struggle with going to school and doing school work
- use bullying behaviour or become a target of bullying
- difficulty concentrating
- find it hard to solve problems
- have less empathy and caring for others
- ongoing anxiety and depression
- emotional distress
- eating and sleeping disturbances
- physical symptoms, such as headaches and stomach aches
- find it hard to manage stress
- low self-esteem
- self-harm
- be aggressive towards friends and school mates
- feel guilt or blame themselves for the violence
- have trouble forming positive relationships

Young people exposed to domestic and family violence are more likely to:

- suffer from depression
- be homeless
- abuse drugs and alcohol
- engage in risk-taking behaviours
- experience or use violence and be controlling and manipulative in relationships

WHO SHOULD I REPORT A DOMESTIC VIOLENCE CASE TO?

Under the Domestic Violence Act, any woman who is aggrieved or anyone who has been a witness to the act can approach the nearest Police Station, Protection Officer and a Service Provider. The court can appoint a protection officer to enforce its orders. The protection officer is a special post created to serve as a liaison between victims of domestic violence and the system. One can also file a complaint directly with the magistrate for obtaining orders of reliefs under the Domestic Violence Act. Anyone who provides information about the offence committed to the concerned authorities is absolved of any civil/criminal liability. Post the complaint, the court is required to instate a hearing within three days of the complaint being filed. If the court finds that the complaint is genuine, the court passes a protection order.

A complaint can also be filed under Section 498-A of the India Penal Code which recognizes the offence of matrimonial cruelty and prescribes criminal penalty⁸

ACT FOR DOMESTIC VIOLENCE:

In India, domestic violence became an explicit public policy following the enactment of the Protection of Women from Domestic Violence Act 2005

⁷ Effects of Domestic violence, available at: <https://www.womenshealth.gov/relationships-and-safety/domestic-violence/effects-domestic-violence-children>

(last visited on May 10, 2025)

⁸ Registration of Domestic violence, available at: <https://www.scconline.com/blog/post/2021/01/29/reflection-on-domestic-violence-act-2005-and-role-of-judiciary-for-balancing-the-rights-of-women/>

(last visited on May 10, 2025)

(PWDVA). It is an act of Protection of Women from Domestic Violence Act 2005 is an Act of the Parliament of India enacted to protect women from domestic violence. It was brought into force by the Indian Government from 26 October 2006. The Act provides for the first time in Indian law a definition of “domestic violence”, with this definition being broad and including not only physical violence, but also other forms of violence such as emotional/verbal, sexual, and economic abuse. The objective of Act is to preserve the family and “regulate and improve matters for the future rather than pass judgement of punishing past behaviour.”

Ending violence against women and girls is an effort that includes everyone in our society. All the citizens give equal rights to women and they try to protect them.

Violence against women can be prevented by strengthening women’s approach to basic human rights and resources. In addition to challenges in ending all sexual violence against women requires more gender equality in all parts of society. Many women who report sexual assault are asked questions about what they were wearing, drinking or using drugs, or where they were during the assault.

Primarily meant to provide protection to the wife or female live-in partner from violence at the hands of the husband or male live-in partner or his relatives, the law also extends its protection to women who are sisters, widows or mothers.

Domestic violence under the act includes actual abuse or the threat of abuse whether physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.⁹

LAWS ON DOMESTIC VIOLENCE

There are several Laws in India which directly deals with the protection of married women from her partner and her partner’s family.

- **Protection of Women against Domestic Violence Act, 2005**

This is an act of the Indian Parliament enacted to protect women from Domestic Violence. It prohibits a wide range of Physical, Sexual, Emotional & Economical abuse against women and all these are broadly defined under the Act. It provides security to women in a family from men in a family. The extent of the Act covers not only the protection of women who are married to men but also women who are in Live-in-relationship, just as family members including Grandmothers, Mothers, etc. A woman has right to be liberated from any type of violence under this Act.

Under this law, women can look for security against Domestic Violence, Financial Compensation, right to live in their mutual house and they can get maintenance from their abuser in case they are living separated.

This law is to guarantee that women don’t get kicked out of their own house and can support themselves if they have been abused. It also ensure the protection of women from their abusers.

- **Section 498A of the IPC (Indian Penal Code)**

This is a Criminal Law, which applies to husbands or family members of husband who are merciless to women. Under Section 498A of the IPC, harassment for Dowry by the family members of the husband or by husband is recognized as a Crime. This harassment can be of any type either Physical or Mental. Despite the fact that Marital Rape isn’t considered as a Crime in India, forced sex with one’s wife can be viewed as Cruelty under this Section. Section 498A has a vast scope. It also includes any and all intentional behaviours against a women which force the women to attempt suicide or risk to life or grave injury or risk to limb or overall health. Here, health incorporates the physical and mental health of the women.

- **Dowry Prohibition Act, 1961**

This is a Criminal Law that punishes the giving and taking of Dowry. The tradition of dowry itself is banned under the Dowry Prohibition Act, 1961. According to this law, gives, takes or even demands dowry, they can be imprisoned for a half year (i.e. for 6 months) or they can be fined upto Five Thousand Rupees.

THE LAWS FOR MAINTENANCE IN INDIA

The maintenance and the procedure are defined under various statutes and their sections. They are:

- Section 125 of Criminal Procedure Code, 1973
- Section 24 of the Hindu Marriage Act, 1955
- Section 18 of the Hindu Adoption and Maintenance Act, 1956

⁹ Acts of Domestic violence, *available at:* <http://ncw.nic.in/sites/default/files/Chapter04.pdf>
(last visited on May 10, 2025)

- Other personal laws in India
- The Criminal Procedure Code

- **Section 125 of Criminal Procedure Code, 1983**, (CrPC) explains the term and procedure of maintenance for the wife, children, and parents of a man. In a separation or divorce case, a court may order a husband who has adequate means of earning, to his wife, if she is unable to maintain herself and earn, to layout maintenance to her, either monthly or annually or in a lump sum amount.

However, the wife is not entitled to the maintenance if she is residing in adultery, or turns down to live with the husband with any unreasonable cause, or living separately with mutual consent.

- **The Hindu Marriage Act, 1955**

Section 25 of the Hindu Marriage act, 1955, describes the maintenance as in such cases, the court may order either the husband or the wife is entitled to layout maintenance in either a lump sum amount or annually or monthly for the lifetime.

- **Hindu Adoption and Maintenance Act, 1956**

According to Section 18 of the Hindu Adoption and Maintenance Act, 1956, a wife, who is born as a Hindu, is entitled to get maintenance by her husband during her throughout her lifetime. Under the act, the wife also has a right of separate residence and maintenance, in any of the conditions defined under section 18(2) of the Hindu Adoption and Maintenance Act, 1956 (Cruelty, desertion, leprosy, adultery, forceful conversion of religion, or any reasonable cause). However, she is not entitled to any kind of maintenance if she is unwilling to the consummation of the marriage, or converted willingly.

Meanwhile, Section 19 of the act says that a widowed woman is entitled to maintenance by her father-in-law.¹⁰

MAINTENANCE UNDER PERSONAL LAWS IN INDIA:

- **Muslim Law**

Under Muslim law, a wife is entitled to get maintenance from her husband under the Muslim Women (Protection of Rights on Divorce) Act; it has been amended now.

Under the laws, the amount of Mehr agreed at the time of marriage has to be given to the wife. Also, during her Iddat period, she is entitled to get a fair and reasonable amount as maintenance. If a Muslim woman gets a divorce and is unable to maintain herself, after the Iddat period, the Judicial Magistrate can pass an order to her relatives, who will pay deemed fit maintenance to her, will inherit her property.

In case the relatives of the woman are not able to pay the maintenance, the Judicial Magistrate can order to pay the same to the State Wakf Board established under the Wakf Act, 1995.¹¹

- **Christian Law**

A divorced Christian woman is entitled to get maintenance under The Indian Divorced Act, 1869. She can apply for maintenance in a lower court or a high court under section 37(41) of the Indian Divorce Act, 1869. Under the act, the husband is liable to pay to his wife for a lifetime.

- **Parsi Law**

Under the Parsi Marriage and Divorce Act, 1963, a Parsi woman is entitled to get maintenance, mentioned in Section 40 of the act. Under the section, a court can order the husband to pay one-fifth of his net income as a maintenance to his wife. However, there are some factors that are been considered by the court. i.e., the husband's capacity to pay, property, and other assets the wife own and personal conduct of both the husband and the wife.

It is worth noticing that a wife is entitled to get maintenance for her lifetime only if she remains unmarried and chaste after the divorce.¹²

ROLE OF THE JUDICIARY FOR PROTECTING THE RIGHTS OF WOMEN FROM DOMESTIC VIOLENCE IN INDIA:

The constitution of India has given many powers to the supreme court, high courts, and district court to protect the rights of the people.

In S.R. Batra vs. Smt. Taruna Batra, the court held that the wife is only entitled to claim residence in a shared household. The shared home means the

¹⁰ Law of maintenance, available at: <https://ssglawfirm.in/the-concept-of-maintenance-under-indian-law/>
(last visited on May 10, 2025)

¹¹ Muslim law, available at: <https://www.legalserviceindia.com/legal/article-441-indian-laws-relating-to-maintenance.html>
(last visited on May 10, 2025)

¹² Parsi law, available at: <https://ssglawfirm.in/the-concept-of-maintenance-under-indian-law/>
(last visited on May 10, 2025)

house belonging to the husband, or taken on rent by the husband, joint family property in which the husband is the member of that family.¹³

In *Krishna Bhattacharjee v. Sarathi Choudhury and Another*, Supreme Court said that there are some duties or principles followed by the courts while deciding the domestic violence case.

In *Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel and Ors.*, the court said that the husband has a personal obligation to maintain his wife.

In *V.D Bhanot vs. Savita Bhanot*, the Delhi High Court said that even the wife who had shared a household before the domestic violence act came into force would be entitled to protect the domestic violence act.

In *Indira Sarma vs. VKV Sarma*, the Supreme Court said that not all live-in relationships are the relationships in the nature of marriage. For testing the concept of a live-in relationship, courts see the duration of relationship, shared household, domestic arrangements, pooling of resources and financial arrangements, sexual relationship, intention, and conduct of the parties, and socialization in public.¹⁴

CONCLUSION:

The constitution and legislature of India have been giving laws and protection to women since independence; still, women are facing domestic violence from husband families. There is a clear indication in India that matrimonial homes are still unsafe for women. The domestic violence during Covid 19 pandemic has various impacts on the mental health of women. The government has started multiple plans like awareness programs, national news channels, radio channels, and social media platforms that solve domestic violence. The results of the pilot study show that domestic violence against women is a significant issue in India.¹⁵

Participants have some idea about the concept of domestic violence but do not know about laws. Government, schools, parents, and society are responsible for women's health which is affected by violence. It is because they didn't do any awareness programs, medical counseling for victims, etc. It's time to recognize that women are the victims of severe kinds of violence.

Domestic Violence increases rapidly day by day specially in Lockdown. It is one of the most appalling kinds of harassment endured by the women in our surrounding today and we are not raising our voice against this violence seriously. All the laws are left in the papers only and reality is apart from this.¹⁶

Survey shows that maximum percentage of victims of Domestic Violence are female but men are also suffering from this problem. We are not raising our voice seriously because we thought we are safe but we are wrong because Domestic Violence can take places with anyone, despite the fact of race, religion, creed or caste. If the problem of Domestic Violence is not dealt with adequately, this kind of abuse will keep on existing in all classes of society without an end. So, as a citizen and young generation of India, we have to stand together and make strict laws to protect the victims of Domestic Violence. Government should have started a check and balance mechanism to see the proper implementations of laws.

Lawyers and judges are the interpreters of laws. So, they should do awareness camps in rural areas to discuss the rules and cures of domestic violence.

¹³ Role of judiciary, *available at*: <http://ncw.nic.in/sites/default/files/Chapter04.pdf>
(last visited on May 10, 2025)

¹⁴ Role of judiciary, *available at*: <https://www.sconline.com/blog/post/2021/01/29/reflection-on-domestic-violence-act-2005-and-role-of-judiciary-for-balancing-the-rights-of-women/>
(last visited on May 10, 2025)

¹⁵ Conclusion, *available at*: <https://www.legalserviceindia.com/legal/article-10907-causes-of-domestic-violence-in-india.html>
(last visited on May 10, 2025)

¹⁶ Conclusion, *available at*: <https://lexforti.com/legal-news/domestic-violence-against-women-in-india/>
(last visited on May 10, 2025)