

# DOMESTIC VIOLENCE AGAINST MEN

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## INTRODUCTION

India is a patriarchal society where women are categorized as vulnerable group. However, the same approach has not been followed with respect to male members of the society. Most of the members of Indian society is very certain that men cannot be target of offences like Men are the victims of domestic abuse, while women are the culprits.

Indian society tends to believe that this kind of offences are happen to occur only with respect to women. If any woman is a victim of such practice, then such news spreads like a fire. But male, being considered as superior by society, cannot talk about domestic violence even if they are the victims of the same. Therefore, men prefer to remain silent and continue to suffer in silence. Even, the law – making body in India neglects this aspect. As a result, many laws are enacted to protect women and not men. The prime instance of the same is the Domestic Violence Act, 2005, which is a major act in this area.

The notion of domestic abuse is not novel so far as it relates to women. However, the same is not true with regard to men. The term domestic violence refers to practice of causing harm to any person within domestic sphere. Domestic violence, as per the United Nations Office of Violence Against Women, is a type of violence used by one spouse in a relationship to obtain or maintain control over another intimate partner.

It includes violence in every aspect be it corporeal, emotional, sexual economic or mental. Domestic abuse can affect people of any ethnicity, age, sexual orientation, religion, or gender. It can happen in any type of relationship, including married, cohabiting, and dating relationships. Domestic violence affects people from all walks of life and all educational levels. Hence, men are no exception.

## II. DIFFERENT CLASSES OF DOMESTICE VIOLENCE

The different kinds of household abuse that can be committed against men are as follows:

1. **Physical Violence:** it refers to act of violence which is corporeal in nature. Men can be subjected to bodily injury, be it with hand, belt, stick etc. Slapping is the most usual method of physical violence.

2. **Emotional violence:** injuries are not always in the form of some body marks. The most hurtful violence is emotional violence where victim started questioning his/her worth. Under this category of violence, victims are subjected to insult, embarrassment and condemnation. It is very difficult to ascertain this type of violence as in any relationships the essence of emotional violence is considered to be common. Hence, victims continue to suffer dilemma. In fact, in most areas emotional violence is not recognized as domestic violence. To held any person liable for this sort of household abuse, any supplementary form of domestic violence like corporeal abuse should be accompanied.

**3. Sexual violence:** men are being subjected to sexual violence as well in matrimonial houses. Sexual violence includes

- i. the cases of involuntary sexual intercourse.
- ii. any sexual act that is intended to exploit, degrade, or damage individual, or that is otherwise degrading to honour, or any other undesired sexual action.
- iii. individuals are compelled to view pornography or other obscene images or materials.

However, there is hardly any data available. There is always this question: can men be victim of sexual violence? This is the sad reality of our society.

**4. Economic violence:** economic violence means control of another person's financial resources or economy. Harassing the victim at work, theft, and the victim's punishment with physical or sexual violence due to improper accounting of funds in monetary form are all examples of economic abuse. Abuse affects people of all financial levels. Economic exploitation is a type of emotional exploitation.

### III. INDIA'S STATISTICAL DATA ON DOMESTIC VIOLENCE AGAINST MEN

In India, it's difficult to find a concrete data on this topic in contrast to its cases relating to women, where data is readily available. It has been found on the consequences of a survey carried on 1000 married males in rural Haryana villages ranging in age from 21 to 49 years old, gender-based violence affects 52.4 percent of married men in India. 51.5 percent of males have been imperiled to some class of torture or abuse by their mates or close partners at some point in their lives. 10.5 percent of men have been sufferers to gender-based violence by their mates or close partners in the previous year. The most common form of marital or domestic violence against men is emotional abuse, followed by physical abuse in second.

### IV. REASONS FOR UNREPORTED CASES ON DOMESTIC VIOLENCE AGAINST MEN

#### 1. STEREOTYPES ABOUT MEN AND WOMEN

Gender stereotypes are stereotypes about what a male or female should do or be like. These roles are not innate to them, but they are gradually learnt and enforced by society's social conditions. India is a country ruled by men from time immemorial, and it is widely considered as shameful event when a man being beaten by a woman. Women are viewed as weak, inferior, and suffocated in a male-dominated society across the country. Males are also stereotyped as strong, self-centered, and insensitive. Men are frequently hesitant to disclose about the suffering they encounter as they are feared of being stigmatised and branded as weak and feminine. They believe that their fight against violence will be unsuccessful and the reason for the same is gender – biased laws in the subject – matter. Additionally, there is general societal outlook that men who cry is weak and womanlike. Hence, resulted in unreported cases of domestic violence. Masculinity is being given highest place in the society.

#### 2. INSTITUTIONAL OBSTACLE

Because there is a widespread belief that men can never be victims of the horrible crime of domestic violence, there is no recourse available. The stereotyped roles and societal shame associated with gender have spawned a slew of gender-specific legislation that offers little

recourse to male victims. There are countless organizations and institutions fighting for female rights, but there are few such groups fighting for male rights. Males face institutional discrimination that prevents them from filing complaints about domestic abuse.

### 3. MALES IN DENIAL

Gender norms combined with gender-specific regulations lead the majority of men to assume that domestic violence only affects women. Even a man with this mindset believes he will never be a victim of this crime. So, even if they are on the receiving end, they are unlikely to realise they stand as victims of such incidents. Additionally, in India, there is a pervasive misunderstanding that household abuse is limited to physical violence. So, whether a man is subjected to economic, sexual, or emotional abuse, he is unlikely to recognise that he is being mistreated and will continue to live in denial.

### 4. WOMEN – CENTRIC LEGISLATION

Many gender-specific regulations are the result of gender biases and stereotypes. Gender-specific laws are those that are limited in scope and can only be invoked by a single gender type. The Government can make legislation involving the empowerment of women or children, according to article 15 (3) of the constitution. One such exception is **Section 498 - A** of the Indian Penal Code. **Section 85 of Bharatiya Nyaya Sanhita 2023** The Criminal Law (Second Amendment) Act of 1983 added Section 489A to the IPC. A guy is liable for cruelty to his wife under section 498 - A of the Indian penal code. There are almost no legal clauses in the Indian penal code that deems women responsible if they are cruel to their husbands. This is based on a fundamental assumption that sin of cruelty to another partner in matrimony could only be committed by males and not by females, according to this provision. Assumptions like this go against our Constitution's essential ideals of individual equality and dignity. There are plenty of fake situations where ladies dishonestly asserted a man for assault or aggressive behavior at home as a result of one-sided provisions in the Indian Penal Statute and various laws that favour ladies, and interestingly, these one-sided laws naturally accept that a man can never be the victim.

Lately, there has been an increase in false instances in which certain legal rules have been misapplied to falsely accuse men or their family members for personal vendetta or ulterior motivations. The Apex Court in India stated in ***Sushil Kumar v. Union of India*** that section 498A was enacted to serve as a shield to guard womenfolk from domestic abuse, and that it shouldn't be used as a weapon to harass men or to wreck personal retribution. Further, the Court went on to say that abusing Section 498A is "legal terrorism." In the instance of ***Rajesh Sharma v. The State of UP and Anr***, the Court of law directed law enforcement agency not to arrest the accused under this clause immediately away if any complaint was made against them. The officials' first task would be to verify the truth of the charges.

Though the judiciary has taken a progressive approach in a few cases, as discussed above, there is still work to be done. The Indian constitution prohibits discrimination between men and women, and it places both genders on an equal footing. Every person of the country has like rights and liberties in the eye of law. So, where is the inconsistency, in the word or spirit of the Constitution?

## V. A CRITICAL STUDY OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 IN INDIA'S LEGAL FRAMEWORK RELATING TO DOMESTIC VIOLENCE

In India, the major act concerning domestic abuse is the Protection of Women from Domestic Violence Act, 2005. However, the said act remains shelter only for women victim. This can be witnessed from the name of the act itself wherein the term “women” is specifically being used. Moreover, Section 3 of the Protection of Women from Domestic Violence Act, 2005 defined the term “Domestic violence” as “any act, omission or commission or conduct of the Respondent shall constitute domestic violence in case it –

- a. harms or injures or endangers the health, safety, life, limb or well-being whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- b. harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- c. has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in Clause (a) or Clause (b); or
- d. otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”

As per the Act, the term “respondent” has been defined to comprise only men as perpetrator of crime of domestic violence as in the definition section under Section 2(q), it has clearly used the term “any adult male person”. Hence, as per the definition, respondent can be husband himself or any relatives of the husband. Therefore, the definition of perpetrator is male – centric. Likewise, the definition of the expression “aggrieved person” is female – centric which is being reflected in its definition as provided in Section 2(a). It says that “aggrieved person” means any females in heterosexual relationship and where she remains exposed to any act of domestic abuse whether it be sexual, physical, emotional etc. Hence, the definition looks only women as the prey of domestic abuse outrightly ignoring men in addition to LGBTQ community as well, who are equally victims of domestic abuse in their household relationship. Hence, the Act depicts the wrong picture of the very act of domestic violence.

Again, a female can bring a lawsuit against any family member in addition to her husband as per **Section 2(f)** of the Act. This includes her own parents, siblings, and relatives of her spouse who live in the same residence. Even if the notion that wives do not inflict domestic abuse on their husbands is accepted, other family members, particularly dads and elders, continue to abuse men.

Furthermore, Section 498 - A of the IPC, which deals with the law of Cruelty, states: "Whoever, being the husband or a relative of the husband of a woman, treats such woman to cruelty shall be punished with imprisonment." This basically states that only females are sheltered from domestic violence as per the clauses of the law. So, even if a man attempts to overcome cultural shame by turning to the law, his options for legal recourse are severely limited. Even the law enforcing authority i.e., police question his masculinity, mocking him

for not being "man enough." Even members of the LGBTQ community are barred from seeking justice if they are sufferer of such act.

Furthermore, in the Indian legal framework rape of men and transgender are not recognized. Our Criminal laws make no clause to safeguard them from rape by males or women.

In India, everyone is said to have the right to life and personal liberty under Article 21. This comprises the right to be free of violence and the right to be treated with honor. As these rights are accessible by everybody, hence, men and the LGBTQ community cannot be an exception of the same. Therefore, they ought to be safeguarded against rape and household abuse. However, it just remains in the statute book.

A positive approach has been attempted by our Apex Court in *Hiral P. Harsora v. Kusum Narottamdas Harsora*, by ruling that the terms "adult male" should be eliminated from Section 2(q) of the Domestic Violence Act, 2005 in order to promote gender equality. As a result, it broadens the Act by allowing a complaint to be filed against a female counterpart as well, allowing a woman to file a complaint against both male and female family members. However, because Section 2(q) of the Protection of Women from Domestic Violence Act of 2005 only applies to the respondent, this judgement does not apply to menfolk who are sufferers of domestic abuse.

Hence, above discussion made it clear that the law is bias towards men. Even the Apex Court has evaluated the clauses of these laws as antiquated and unfair in light of recent events including domestic abuse against males, rape of men, and adultery committed by women. These laws are sexist, as they only see women as victims. These laws must be changed to provide room for both men and women. In *Joseph Shine v. Union of India*, the Hon'ble Supreme Court, in a decision written by Justice D Y Chandrachud, stated that the laws prohibiting adultery are biased against men and that they must be changed. Domestic abuse laws are also discriminatory since they exclusively acknowledge women as victims. There is still more work to be done in India to make its laws gender-neutral. There are, in reality, some countries like United States of America, England etc. which recognizes the offence of domestic violence irrespective of sex. Hence, the time has come for India as well to apply the same approach as far as the offence of domestic violence is concerned. Society is changing, so the change in approach is also needed.

## CONCLUSION :

Society's values, culture, and norms have changed dramatically in recent years as a result of industrialization and westernisation. Previously, men were seen as defenders of their families, but nowadays, both men and women work, raise, and manage their households, contributing equally to their salaries. Men have begun to open out about the domestic violence they endure, and they have begun to publicly share their sorrow, agony, and challenges. Men are no longer superior to women in terms of strength.

It can be concluded that men are equally subjected to domestic violence in India and worldwide. However, due to many factors such as patriarchal society, the physical appearance of men, physical strength of men and women etc. there has been very less acknowledgement with regard to such practice. Society is still in rudimentary stage as far as the offence against



men are concerned. We have seen many legislations and conventions both at national and international level protecting the rights of women. However, the same practice is not been adopted as far as offences against men are concerned. Talking about India, we are having very less laws protecting and recognising the offences against men. Still the people consider that women cannot be a perpetrator in such crimes. It would be wrong to state that judiciary is completely silent in this regard as there are occasions where the judiciary has acknowledged such fact and punished the offender as well. Thus, we can say that society is changing, so the laws are also required to be changed.

The legislature is required to take into consideration the changing nature of society and should come up with laws favourable to changing needs of the society. As such one of the changing needs of society as far as case of domestic violence is concerned is to come up with gender neutral laws. Some awareness camps can be arranged to address the issue and for that help of media can be taken as well. Some small - scale awareness programmes in the form of seminars, workshops, legal aid camps etc. in school or colleges can also help in this regard. The helpline numbers for helping the male victims needs to be highlighted more. Many people are not aware of its existence. The numbers can be highlighted through newspapers, social media, news channels, pamphlets etc. Additionally, the role of enforcement official is equally important. The police officers need to look after the allegation of such violence seriously. Moreover, the role of judiciary cannot be neglected as well as judiciary is the epitome of justice. As such justice is for all. And men are no exception to it. Hence, the need of hour is gender – neutral laws in area of domestic violence to restore faith in our judiciary and law – making body of the country.

Apart from that mental health should not be neglected as we have witnessed the consequences of the same during the global pandemic of COVID -19. People now started talking about mental health. This should be continued in future as well. The topic of mental health was neglected in the past and we have witnessed the consequences of the same. Hence, many people now being open with regard to this matter. Similar kind of approach needs to be adopted as far as domestic violence against men are concerned and we need to break all stereotypes attitudes towards it. This way more and more men will be able to speak about the hardship they are going on. Counselling sessions would be of help. Hence, its past time for statutes and legislation to acknowledge their problem as a social issue or concern. Domestic violence against men can be recognised through effective legislative change both at national and international level and public awareness campaigns, and the dismantling of stereotypes and preconceived notions. Moreover, only enacting the law is not the solution, the judiciary and executive needs to look into its implementation effectively. Thus, all these changes can bring a positive change in society.