
DOMESTIC VIOLENCE AMONG SPOUSES NORMALISED IN INDIA

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ABSTRACT

Domestic violence among spouses is prevalent in India. Post-Vedic period, the institution of marriage which was once considered sacred and uniting the parties in an indissoluble union has gradually lost its object. During Vedic period, both the husband and the wife had equal footing, the wife had an honored position in the household. In the present scenario, although the provisions for protection of women, their equality, their welfare, their growth and development and the remedy for the depletion of which is said to be easily available, is it actually?

In India, the concept of domestic violence, whether mental or physical abuse, amounts to cruelty, but is being normalized and the extent of hurt is calculative. Everything between the married couple stays between them is what the society would expect, the fact that intervention by any other party not involved in the marriage is considered unethical but not the part where the act of inflicting violence, it is justified in the end. Even after 77 years of independence, women still struggle to fit in society and have to live by the standards set by it. Divorced women are always considered culpable, even if it is not their fault, once a woman is divorced the society would hold her accountable and criticize her for being unorthodox. So, women are usually supposed to endure and remain in the failed, abusive marriage until either of them is dead.

Abuse is still abuse, no matter the extent of hurt, the remedy must be utilized exhaustively, the aggrieved party must be awarded justice and the country must uphold their virtue. Violence against women reflects the pathetic reality that women are just not safe and secure.

Introduction:

Women are usually considered the weaker and most vulnerable section of the society. The biological weakness of a woman often makes her a victim of gross and severe physical and mental violence not only outside her home but also inside her home. In some households, men like to physically dominate and show that they have the upper hand. Every society has made progressive improvement in accepting the importance of equality of gender which gave way to more affirmative provisions against gender discrimination. Although there are many provisions enacted, there still continues to be discrimination, women are deprived of their basic freedom. The good girl-bad girl contrariety notion is evident whenever there is an act of violence against women, it just simply reflects the patriarchal notions about the role of women and the so deemed “proper” place and time. People blame it on the woman when she is a victim of violence, saying “She shouldn’t have been there” “She shouldn’t have worn that dress” “She shouldn’t have said that”, and so suddenly the victim becomes the instigator.

Domestic Violence:

Violence generally means abusive behavior and domestic violence is basically violence which occurs within the family. Repetitive physical misbehavior, interrelated with mental torture, deprivation of basic needs and rights, neglect and forceful sexual abuse without consent are forms of domestic violence. Dowry related issues are more prevalent in India. As per Section 3 Explanation II of Protection of Women from Domestic Violence Act, 2005¹ Systematic pattern of abusive behaviour, occurring over a period of time that may become more frequent and severe and indulged in for the purpose of demand for dowry. Such behaviour may include verbal, physical, psychological and sexual abuse.

When it constitutes Domestic Violence:

- a. Physical abuse or threat of physical abuse,
- b. Mental abuse, emotional or verbal,
- c. Sexual abuse or threat of sexual abuse,
- d. Economic abuse,
- e. Demand for dowry,
- f. Harassment,
- g. Intimidation and

¹ Protection of Women from Domestic Violence Act, Sec 3, 2005.

h. Damage or destruction of property

A violation of a basic human right:

Domestic violence amongst spouses is a flagrant violation of the basic human right of an individual. Gender has been conceived in terms of special and distinctive moral order. Justice and rights have structured male moral norms, values and virtues. Domestic violence is infringing upon the fundamental principles of dignity, security, and equality enshrined in the constitution of India. Article 14 of the Indian Constitution² guarantees the right to equality before the law. The Protection of Women from Domestic Violence Act, by including gender-neutral language for respondents, seeks to uphold the principle of equality by acknowledging that both men and women can be victims or perpetrators of domestic violence. Article 15³ prohibits discrimination on the grounds of sex, among other factors. The PWDVA aligns with this constitutional provision by addressing domestic violence as a human rights issue without discriminating based on gender. Article 21⁴ guarantees the right to life and personal liberty. The Protection of Women from Domestic Violence Act, by providing protection orders and other remedies, seeks to safeguard the right to life and personal liberty of individuals facing domestic violence. Article 39 (e) and (f)⁵ of the directive principles of state policy emphasize that the State shall direct its policies towards ensuring that men and women equally have the right to an adequate means of livelihood and that there is no abuse of power and position.

Wife-Battering

For women, being battered by a man whom she trusted the most to share the rest of her life becomes a shattering experience undermining the very foundation of a healthy relationship, eroding trust and respect. But beyond the immediate physical injuries, the emotional and psychological scars inflicted on victims can last a lifetime, affecting their well-being and leading to an indefinite cycle of trauma. In Indian culture, women from a young age are raised to be submissive, a wife rarely gathers the courage to report the case of battering to the police and suffers the pain and humiliation in silence because even if she wants to take a stand, the fear of her own parents refusing to succour won't let her. Wife-battering must be condemned

² India Const. art. 14

³ India Const. art. 15

⁴ India Const. art. 21

⁵ India Const. art. 39 cl.1 (e)(f)

to break the cycle of abuse. If not, it prolongs a harmful pattern that can be passed down through generations, normalising violence as a means of conflict resolution, endlessly.

Mental cruelty:

Cruelty is not limited to physical abuse. The emotional and psychological impacts of domestic violence can be just as devastating, if not more so, than physical injuries. Victims often feel ashamed or unsure if they are truly being abused due to the subtle nature of the behaviour and makes it harder to leave the abusive relationship. It can also manifest in ways of intimidation, coercion, isolation, control, humiliation and gaslighting a partner or a dependant.

In recent days, mental cruelty has played a significant part as a ground for divorce. Under Section 27(d) of the Special Marriage Act, of 1954⁶, cruelty has been defined as the “Conduct or Behaviour by the respondent towards the petitioner that results in physical or mental suffering, endangering the petitioner’s life or health, or renders it impossible for them to live with the respondent after the marriage has been solemnized”. It can be inferred from this that cruelty includes both mental and physical torture. However, cruelty has been recognized as a ground for divorce only after the 1976 Amendment of the Hindu Marriage Act of 1955⁷. It is comparatively easy to recognize a physically abused person, whereas it is not the same case with mental cruelty. Almost, all of the victims of mental cruelty are obliged to remain with their partner because it is difficult for them to prove mental cruelty before the court. The petitioner was required by the Court to demonstrate that the cruelty was so severe that it was difficult to continue living with their spouse. However, the Supreme Court in the case of Naryan Ganesh Dastane V. Sucheta Narayan Dastane⁸, upheld that in the cases of cruelty, “very slight fresh evidence is needed to show a resumption of the cruelty, for cruelty of character is bound to show itself in conduct and behaviour, day in and day out, night in and night out.”

In Inder Raj Malik v. Sunita Malik⁹, the supreme court recognized the concept of cruelty inflicted by the wife as grounds for divorce, acknowledging the possibility of men facing abuse within marriage. V.D. Bhanot v. Savita Bhanot¹⁰, the Supreme court highlighted the importance of considering mental abuse alongside physical abuse when defining domestic violence.

⁶ Special Marriages Act, sec. 27 cl. (d), 1954

⁷ Hindu Marriage Act, 1955.

⁸ Narayan Ganesh Dastane v. Sucheta Narayan Dastane (1975), 1975 AIR 1534 (India).

⁹ Inder Raj Malik v. Sunita Malik (1986) CriLJ1510 (India).

¹⁰ V.D. Bhanot v. Savita Bhanot AIR 2012 SC 965 (India).

Gender discrimination in accountability:

There persists a challenge in holding male perpetrators accountable. Deep-rooted societal norms and traditional gender roles often perpetuate a culture of silence around domestic violence. These gender stereotypes bring about a belief that certain behaviours are acceptable or justified. Many cases of domestic violence go unreported due to fear, shame, or a lack of awareness about legal remedies so victims may hesitate to come forward, and even when they do, there can be societal pressure or lack of proper support. And there is no proper implementation and enforcement of laws relating to the same. Family matters are quite sensitive and should be resolved privately the factor revolving societal reputation, may sometimes discourage reporting of domestic violence.

Male victims:

Not every victim is a woman, men are also victims, but it goes unnoticed because of societal norms, traditional gender roles, and a lack of awareness and enforcement. Patriarchal attitudes contribute to the under-reporting of domestic violence by male victims. Knowledge about legal provisions available to protect male victims is not widespread. Societal expectations around masculinity can create barriers to seeking help or support. Many gender-neutral laws are solely framed within the view of protecting women which unintentionally contribute to a perception that men cannot be victims or perpetrators of domestic violence. Domestic violence should be inclusive of all genders also ensuring that support is available for all individuals in need, regardless of their gender. In *Hiral P. Harsora v. Kusum Narottamdas*¹¹, the Supreme Court judgement, the term "adult male" was struck down from Sec. 2(q) of the Protection of Women from Domestic Violence Act (PWDVA) 2005¹², which limited its application to "adult male" and was in violation of Article 14 of The Constitution of India, 1949¹³, so this exclusion was ruled discriminatory and the court clarified that men could also avail protection under the act. In the case of *Dastane V. Dastane*¹⁴, the husband was granted divorce on the grounds of cruelty. The Hon'ble Court upheld that the wife's threats to terminate her life, and verbally harassing the husband and his father constituted mental cruelty.

In the case of *Mrs. Deepalakshmi Saehia Zingade V. Sachi Ramesh Rao Zingade*¹⁵, the Court

¹¹ *Hiral P. Harsora v. Kusum Narottamdas Harsora* AIR 2016 SC 4774 (India).

¹² Protection of Women from Domestic Violence Act, sec. 2(q), 2005.

¹³ India Const. art.14

¹⁴ *Dastane v Dastane* (1975) AIR 1975 SC 1534 (India).

¹⁵ *Mrs. Deepalakshmi Saehia Zingade v. Sachi Ramesh Rao Zingade* (2009) AIR 2010 Bom 16 (India).

ruled out that the wife caused mental cruelty to her husband by falsely accusing him of having a girlfriend.

Conclusion:

"Marriage is that relation between man and woman in which independence is equal, dependence is mutual and the obligations reciprocal"-Louis K. Anspacher¹⁶. A just and compassionate society is the goal and fostering a society where everyone is treated with dignity and where violence is not tolerated. There is a long way to go in order to achieve this but with the help of every individual, a little change on their side can go a long way. Society will always have an excuse to blame women and absolve men. Addressing the root causes of domestic violence is essential for building a society that prioritizes the well-being of all its members and everyone deserves to feel safe, respected, and valued in their relationships.

¹⁶ Ref. Ayyppankutty v. State of Kerala AIR ONLINE (2019) 2019 KER 54.