



## An Examination of Domestic Abuse against Men in India with Particular Reference to Indian Legislation

**Dr.Disha Tiwari**

Asst Professor

Sonopant Dandekar Law College,Palghar

Email Id: [sdishatiwari@gmail.com](mailto:sdishatiwari@gmail.com)

Contact No: 9967867977

**Dr.Payal V Cholera**

Principal

Sonopant Dandekar Law College,Palghar

Email Id: [cholerapayal@gmail.com](mailto:cholerapayal@gmail.com)

Contact No: 9324878729

### Abstract

Domestic violence has always been focused on women, with only men being the victims of violence. However, in recent times, due to social and economic issues affecting families, the scope of domestic violence has expanded to include more than just men. As men are often the victims of domestic violence, they are often the ones who do not report it and become the primary victims of its effects. In our society, it is often assumed that only women harass men, and this is true, but there are many instances where women also harass men. Men who are victims of domestic violence often do not receive justice due to their poor situation in family and society. Some laws are created to protect women, but they are often abused. This article aims to explain the scope of this problem and explain the causes and effects of domestic violence on men. It also calls for gender neutral laws. The protection of women from domestic violence act, 2005 is the main legislation that deals with domestic violence. However, the title and language of the law may deter male victims from seeking help. Despite the widespread awareness of domestic violence against women, there is a significant but under-reported issue of domestic violence against men in India that needs to be addressed urgently. Domestic Violence against men challenges gender stereotypes, challenges the traditional notion of victimization, and emphasizes the need for comprehensive support and protection for all victims of Domestic Violence.

*Keywords:- domestic violence, victimization, justice, harassing men, verbally, physically, emotionally, psychologically*

### Introduction

A gender-equal society would be one where the word 'gender' does not exist: where everyone can be themselves." -Gloria Steinem<sup>1</sup>. Domestic Violence Act grants and entitles the women to have the security against such heinous crime happening and are being committed in the Indian society. This act prohibits and forbids any kind of violence against women, in the family by the spouse, or any unmarried women having live-in-relationship. Economic abuse, physical abuse, emotional abuse, emotional abuse, mental abuse, has been thoroughly defined in the act, and the act has been drafted scrupulously. Taking into consideration every aspect in the terms of violence it has been broadly dealt with various situations and laid down detailed provisions regarding protection and safeguarding interest and right of the aggrieved. It also contains the procedural follow up while going for taking a legal remedy, who can file the complaint, against whom the complaint can be filled? These are the certain questions comes into the mind of the victim while going for asking a legal help. Thus this act is sufficed in itself

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<sup>1</sup> <https://www.hindustantimes.com/india/feminism-makes-love-easier-says-gloria-steinem/story-CMt7gY31ffRlpYcfetbvBL.html>



mentioning everything. India is a patriarchal country. There is a general presumption in our society that men are strong and are supposed to conceal their emotions. If they show their emotions, they are labelled as weak and effeminate. In such environment, men feel ashamed to talk about their sufferings and bottle up their feelings, instead of speaking about it in public.

### **Development of Legal Efforts in India**

#### **Section 498A India Penal Code [IPC],**

Domestic Violence Act grants and entitles the women to have the security against such heinous crime happening and are being committed in the Indian society. This act prohibits and forbids any kind of violence against women, in the family by the spouse, or any unmarried women having live-in-relationship. Economic abuse, physical abuse, emotional abuse, emotional abuse, mental abuse, has been thoroughly defined in the act, and the act has been drafted scrupulously. Dowry had always been the issue in lime light after the ones marriage is completed. This the common issue nowadays, and day by day varying situations could be witnessed regarding dowry crimes. Husband and in laws of the married women are the main suspect under this section. This section talks about the offences, situation going against the women due to dowry issue, demand by in-laws. Under this section it has been covered that, any harassment against women by husband or husband side, leading to any injury to the body, or any harm whether it is physical or emotional is a crime. As Marital rape is not recognized in Indian law, and its gives men a infallible right to have force sex with his wife. But even force sex without woman's consent can be challenged under this section. Also any such act, which compels or induce women to take such actions due to which she can lost her life, or have the threat on permanent damage to her body, any limb or any other organ would also be considered as a crime. Also harms include both bodily and mentally

#### **Dowry Prohibition Act, 1961**

This act, above mentioned two acts and provisions are totally interlinked to each other. Somehow all these three acts have nexus among them. This act was enacted in the year 1961, which claims the receiving of any gift, giving any gift, for the purpose of dowry, by the either party of the couple, or any other third party in respect to the marriage, will be punished. The motive behind enacting and enabling this act was to eradicate the practice of dowry in the marriages, and leash out this increasing crime.

#### **Section 304B<sup>2</sup>:**

This section of IPC defines the Dowry Death, or serious injuries leading the life of the women to the serious stage, due to harassment and criminal act used by the husband or husband side against the women. And punishment defined for dowry death, committed by the accused, shall be punished for not less than 7 years of imprisonment, or could be imprisoned for whole life.

#### **Section 305 and 306<sup>3</sup> :**

This section of IPC defines the offence of abetment to suicide, against the deceased person. Former section defines the offence committed by the child, insane, delirious, or has committed suicide under the influence of intoxication or any person has abetted the suicide against such mentioned person herein. Latter section defines the act committed by any person, which compels other person to commit suicide shall be punished for not less than described imprisonment or could extend up to 10 years of imprisonment. Thus if any harassing means,

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<sup>2</sup> Section 304B, IPC, 1860

<sup>3</sup> Section 305 and 306, IPC, 1860

use by the husband or the husband side, against the women, which influenced her to commit suicide, can be punished under the aegis of this section.

#### **Section 340 and 349<sup>4</sup> :**

Both the sections are of IPC. Former section talks about the wrongful confinement with criminal intention. So if any male spouse, whether married or living in live-in relationship, wrongfully confines her female spouse, with the motive to extort or use any coercive action or to torture her physically shall be punished under this section. Latter section talks about the, force used by anyone against other which is criminal in nature, which causes motions, or disrupts the motion, or cessation to motion to other or by use of any other substance against someone.

#### **Judicial Approach**

In the matter name **S.R. Batra v/s Smt. Taruna Batra**<sup>5</sup> the apex court decided the clarified and ratified the definition of Shared Household given under section 2 [s] of the Domestic Violence act, 2005. Supreme Court said, that the definition is bleary and not very clear, and it clumsy to be clearly interpreted. There is a clause in Constitution of India, which is article 20 which states that no law which has been drafted and enacted subsequent to the offence committed shall have retrospective effect.

But Supreme Court in the case named, **V.D. Bhanot v/s Savita Bhanot**<sup>6</sup>, upheld the decision given by the Delhi High Court, in which retrospective effect was discussed regarding Domestic Violence Acts 2005. Delhi High Court said that, if the women has shred household with her husband before the enactment of the said act, she would be still entitled to be entertained or claim maintenance under the concerned act. The objective of the Act lays down An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

In **Vandhana v. T. Srikanth**<sup>7</sup>, in one of the early cases since the enactment of the DV Act, observed that the Act was formulated to implement Recommendation No. 12 of United Nations Committee on Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), 1989 and which was ratified by India in June, 1993. Interpretation of the DV Act should conform to international conventions and international instruments and norms.

The Bombay High Court in the case of **Ishpal Singh Kahai v. Ramanjeet Kahai**<sup>8</sup> reiterated that the object of the DV Act is to grant statutory protection to victims of violence in the domestic sector who had no proprietary rights. The Act provides for security and protection of a wife irrespective of her proprietary rights in her residence. It aims at protecting the wife against violence and at the prevention of recurrence of acts of violence.

**Deepti Bhardwaj Vs Rajeev Bhardwaj**<sup>9</sup> the Court said, “Every person is entitled to live with dignity and honour. If the words as stated herein above are used against an individual, the same would be very derogatory and humiliating for the individual.” Court further found that the conduct of the appellants, which has been proved on record, is of such quality, magnitude and

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<sup>4</sup> Section 340 and 349, IPC 1860

<sup>5</sup> S.R. BATRA SMT.v/s TARUNA BATRA, 2007 3SCC169

<sup>6</sup> V.D. BHANOT v/s Savita Bhanot, 2013 6 SCC 795

<sup>7</sup> 2007 SCC Online Mad 553

<sup>8</sup> 2011 SCC Online Bom 412

<sup>9</sup> 2023 SCC Online Del 818;



impact as would have caused mental agony, pain, anger and suffering to the husband on a regular and continuous basis, and thus clearly amounted to cruelty.

**Shamshada Akhter Vs Ajaz Parvaiz Shah**<sup>10</sup>, In Jammu and Kashmir Court “Protection of Women (from Domestic Violence) Act, is to give protection to women from violence. It has not been enacted to cause harassment to other spouse or to further aggravate matrimonial discord to the extent of throwing the respondent out of his own house.” The Court, therefore, imposed ₹10 lakh cost on the woman who had procured orders under the DV Act to throw her husband out of his house but decided to opt for withdrawal preventing the implementation of a series of interim orders issued by various courts.

**Prabin Gopal Vs Meghna**<sup>11</sup> The Supreme Court observed that “Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situation, it may be true mental cruelty.

**Preeti Gupta & Anr. v. State of Jharkhand & Anr.**<sup>12</sup> Supreme Court had noted the abuse of Section 498A by women to implicate their husbands and in-laws in police cases and in-laws in police cases and said that most of these cases emanated from trivial matrimonial disputes. It had asked the the govt to take a "serious relook" at the provision as the tendency of over implication is reflected in a large number of cases.

### **Men suffering in silence**

When we think about marriage, it is a beautiful and lifelong sacred bond, but the harsh reality of today is divorce, which happens due to various reasons. Today more than 30% of marriages end up with a divorce. The most prominent reason is domestic violence. Mainly when a marriage falls apart due to this reason, we are of the view that it's the man and his family who are the culprits. If a man shouts on his wife, he can be accused of domestic violence, but if a woman shouts on his husband, there is nothing that can be done. In our male-dominant society, it is hard to believe that a male can even go through such kind of abuse and a female can be an offender. Though domestic violence is primarily faced by women but that cannot be an excuse to exclude male victims simply because of their gender There are several reasons why a man is not able to come forward and be vocal about such an issue, but the most well-known reason is the thought, what will society think.

Other reasons might include: • Fear of a dowry, or Domestic violence case, or a case under section 498A: The most extreme fear for men is being accused of a false accusation of domestic violence or dowry case, as it tends to go on for many years, and is mostly in the favour of the wife.

• For the sake of the children: knowing that this kind of experience will harm the mental health of the child and also because getting the custody of the child is very difficult for a man. From the very childhood, a boy is taught that he is not supposed to be sensitive. Even in school, if a boy used to cry, his classmates used to mock him, make fun of him by saying that “you are crying like a girl.” People start questioning the masculinity or manliness of a man if he speaks about being harassed or abused at the hands of his wife. Due to these biases, not just a man, a woman is also not able to take a stand for herself. Our society has made a list of traits that a

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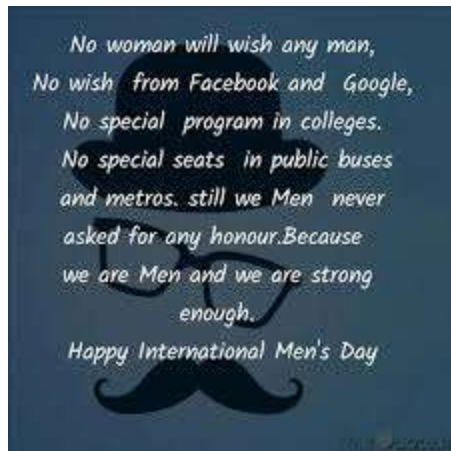
<sup>10</sup> J&K 3722349/2019

<sup>11</sup> 2021 SCC Online Ker 2193

<sup>12</sup>(2010)7SCC667

man or a woman should possess within them, and if they see something unusual or irregular, they will start being judgmental.

### **Men's Rights Movement**



Rights movement in India was started in Delhi by a supreme court lawyer known as Ram Prakash Chugh in 1988. His intention was to draw the attention of the public regarding how men are badly treated by their wives in cases of dowry harassment. The rights movement kicked off as an organization geared towards stopping the practice of cruelty on husbands by their wives. Common topics discussed within the men's rights movement include family law (such as child custody, alimony and marital property distribution), reproduction, suicides, domestic violence against men, circumcision, education, conscription, social safety nets, and health policies. In the bone of contention of the movement was the issue of the dowry law which was created in 1983 and formerly known as section 498A of the IPC. The law protects the interest of women when it comes to sexual harassment, violence, abuse as well as cases when a bride fails to complete her dowry payment. The law had empowered security agencies, particularly the police, to willingly arrest her and her relatives for committing crimes relating to dowry.

### **Forms of Domestic Violence affecting Men**

Forms of Domestic Violence Forms of domestic violence can include physical violence, sexual violence, economic control, psychological assault (including threats of violence and physical harm, attacks against property or pets and other acts of intimidation, emotional abuse, isolation, and use of the children as a means of control), and emotional abuse. Physical violence: Physical violence involves the use of physical force against another. Examples include hitting, shoving, grabbing, biting, restraining, shaking, choking, burning, forcing drug/alcohol use, and assault with a weapon, etc. Physical violence may or may not result in an injury that requires medical attention.

- ✓ **Sexual violence:** Sexual violence involves the violation of an individual's bodily integrity (sexual assault), including coercing sexual contact, rape, and prostitution, as well as any unwelcome sexual behavior (sexual harassment), including treating someone in a sexually demeaning manner or any other conduct of a sexual nature, whether physical, verbal, or non-verbal. Sexual abuse also includes behavior which limits reproductive rights, such as preventing use of contraceptive methods and forcing abortion.
- ✓ **Psychological abuse:** Psychological abuse is often characterized as intimidation, threats of harm, and isolation. Examples include instilling fear in an intimate partner through threatening behavior, such as damaging property or abusing pets, constant supervision, or controlling what the victim does and who they talk to. Spiritual abuse



may be included as a type of psychological abuse. It involves the misuse of spiritual or religious beliefs to manipulate or exert power and control over an intimate partner (i.e., using scripture to justify abuse or rearing the children in a faith or religious practice the partner has not agreed to).

- ✓ **Emotional abuse:** Emotional abuse involves undermining an individual's sense of self-worth. Examples of emotional abuse include constant criticism, name-calling, embarrassing, mocking, humiliating, and treating like a servant.
- ✓ **Economic abuse:** Economic abuse involves making or attempting to make the victim financially dependent on the abuser. Examples of economic abuse include preventing or forbidding an intimate partner from working or gaining and education, controlling the financial resources, and withholding access to economic resources.
- ✓ **Digital Abuse** – Digital or cyber abuse is a form of domestic violence that occurs through internet and digital devices. It includes online harassment, cyber bullying etc. For example, sharing photos or videos of a victim without his/her consent.

### **Causes of Domestic violence**

Domestic violence can be varied and individual, and there is no one cause of domestic violence. In some cases, intimate partner abuse can be influenced by situations, including your own state of behavioral well-being. For example, if you and your partner both experience tendencies toward domestic violence, the situation may quickly spiral out of control.

Therefore, there is no uniform or single reason that leads to domestic violence. It is a combination of various sociological/behavioral, historical, religious, and cultural

#### ✓ **Social/Political/Cultural factors**

- Discriminatory social, cultural or religious laws, norms and practices that marginalize women and girls and fail to respect their rights.
- Gender stereotypes are often used to justify violence against women. Cultural norms often dictate that men are aggressive, controlling, and dominant, while factors that lead to perpetration of domestic violence against women.
- Collapse of family, social and communal structures and disrupted roles within the family often expose women and girls to risk and limit coping mechanisms and avenues for protection and redress.

#### ✓ **Judicial Barriers**

- Lack of access to justice institutions and mechanisms, resulting in a culture of impunity for violence and abuse.
- Lack of adequate and affordable legal advice and representation.
- Lack of adequate victim/survivor and witness protection mechanisms.
- Inadequate legal framework, including national, traditional, customary and religious law, that discriminates against women and girls.

#### ✓ **Individual Barriers**

- Threat or fear of stigma, isolation and social exclusion and exposure to further violence at the hands of the perpetrator, the community or the authorities, including arrest, detention, ill-treatment and punishment.
- Lack of information about human rights and on how and where to seek remedies

### **Consequences of Domestic Violence**

1) **Suicide:** Domestic violence can have devastating effect on mental health and can cause depression, low self-esteem, anger and suicide. It was observed that married men committed more suicides than the unmarried men. According to the 2002 report by World Health



Organization, women think of committing suicide more often than men, while men die of suicides more frequently.

2) **Health problems:** Most people think that domestic violence only has physical effects on men, but there are also long-term health problems like cardiovascular, neurological, and mood disorders. Short term injuries like bruising and broken bones are the other minor consequences faced by men. About 6 of every 10 men (or 60%) experience at least one trauma in their life.

3) **Negative effects on children:** Studies show that living with domestic violence can cause physical and emotional harm to the children and young people.<sup>15</sup> Domestic violence can disturb the family environment and can cause children to develop low self-esteem, aggressive and psychotic behaviour.

4) **Low Self – Esteem** – Research has shown that victims of domestic violence tend to struggle with low – self esteem for some time. The toxic behavior from a toxic partner may affect male victim’s mind. Therefore, it is usual for a violence to be fought with low self esteem. It would be difficult of a male victim to accept the compliments and to socialize. This low self esteem eventually affects every single aspect of his life. His productivity may be reduced, he may struggle to convince the potential investors next time, and his dating scenario may decline. And this will have bad repercussions.

5) **Tendency to Continue the Cycle** – There is a popular quote that says “hurting people hurts people”. Regarding male domestic violence in marriage, this quote is 100% true. When domestic abusers enter into a new relationship without addressing their traumatic experience, they tend to repeat the same cycle they experienced from their previous toxic relationship. As a result, he starts to get upset too much, misinterprets all nice gestures of his partner, and can even get physical at different times. On the other hand, the relations of male victims with his other family members would get affected. If it is not checked, it can create conflict between families and break the bond between a man and other family members, such as his children and/or siblings.

6) **He becomes Antisocial** – Many studies have been done on the male victims and these studies show that it becomes more difficult for men to talk about domestic violence in comparison to women. This shows that mostly male victims try to hide their stories from others and keep their experiences with themselves instead of sharing with others. Many male victims don’t even socialize much after facing these traumatic experiences.

7) **Feeling Of Left Out** – Many domestic violence protection laws are only related to females and children. Due to some reasons, society doesn’t even accept the fact that men can also become the victims of domestic violence and if society does so, there are no ways to help male victims. Given these factors, a man may feel forced to incorporate his pain and construct a medium for himself. Instead of asking for someone’s help, he adopts some very bad activities to ease his loneliness and pain. Hence, many men fall into a contaminated lifestyle when they experience domestic violence. For example, a man may start smoking, drinking.

8) **Discrimination At Workplace** – People may look at you in a funny way if you admit in a board meeting that you were a victim of domestic violence or intimate partner violence. This is due to long-standing societal beliefs that a man must always be responsible and take actions. Admitting this can feel depressing. Unless special attention is given, partiality against man would start at the workplace whenever he accepts that he is a victim of domestic violence

### **Why are Complaints not filed?**

1) **Fear of being laughed at:** As compared to women, men are significantly less vocal about domestic violence. The phrase “men don’t cry” imposes pressure on young boys to prove masculinity to our culture. Owing to such mentality, men are often hesitant to complain,



thinking that people will not believe them or will choose to ignore their problem. There have been incidents where men have plucked up the courage to go to the police station and file compliant against their abusive wife, but instead, they are threatened and laughed at by the police and neighbours. These incidents make it even more challenging for men to ask for help, and they prefer to suffer in silence as there are no laws to protect them from domestic violence.

2) **Fear of false allegations:** There are a lot of laws relating to women in India. Many women have taken the wrong advantage of Section 498A IPC and have made false allegations on their intimate partner. Men fear that their wives might file false complaints of domestic abuse or dowry harassment against them. False cases of domestic violence can have serious adverse effect on the person accused.<sup>16</sup> Scared of possible repercussions, men refrain themselves from attempting to communicate about it to the society.

In *Arnesh Kumar v. State of Bihar* (2014)<sup>13</sup>, it was found that the domestic violence case filed by the petitioner is false and that she misused the Domestic Violence Act, 2005. The Supreme Court observed that misuse of Section 498 A results in harassing the husband and his relatives by getting them arrested under this section. In *Bibi Parwana Khatoon v. State of Bihar* (2017) 6 SCC 792, the court acquitted the husband and held that the court must guard against false implications of the relatives.

In *Rajesh Kumar and others v. State of U.P.*<sup>14</sup> The Supreme Court laid down comprehensive directions to prevent the misuse of provisions of Section 498A, IPC. Fear of losing custody: Mostly, women are seen as the victims and gain sympathy in cases of child custody and domestic violence. Men fear that if their intimate partner intentionally makes false allegations of domestic violence, there would be a possibility of losing custody of their child. Fathers don't want to leave their children in the hands of their abusive wife and fear that if they file a complaint, then their intimate partner (wife) will try to take their children away from them. Men fear that they might become the victims of false allegations and hence prefer to become silent victims of domestic violence.

### **Conclusion**

The saying that “men don't cry” and “men don't feel pain” is a fallacy. With the increasing false cases of dowry harassment and domestic violence, there are growing number of men getting harassed by their wives and her relatives. Domestic violence can happen to anyone irrespective of gender, race, caste, creed or culture. Previously, males 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. Domestic abuse against men can be identified through effective legislative changes, public awareness campaigns, and the dismantling of prejudices and preconceived beliefs. The family structure and society are changing, and the same is true of gender violence norms and ideals. Men are also subjected to physical and mental abuse from their spouses and in-laws. As a result, their issues must be acknowledged as a social and public health problem, with appropriate measures and interventions addressed. They, too, require assistance in times of stress and family violence, particularly from their spouses. Domestic abuse against men must be included as a penal offence in laws and legislation. The pillars of society and a family are men and women. As a result, laws are essential to protect both parties from marital abuse

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<sup>13</sup> 2014 8 SCC 273 (Supra)

<sup>14</sup> 2017 SCC Online SC 821





### **Suggestion**

- When women sue men, there should be proper investigation of those cases because many cases turn out to be false and those who are innocent men get punished for that crime which they did not commit.
- Husbands suffering from domestic violence should also get the right to file divorce against their wife
- In such a situation, there is a need to balance the law which was brought for the empowerment of women and the safety of women is very important, they have to be empowered but at the same time along with the safety of women, we should also protect those men. Care has to be taken against those against whom this law is misused we have to remember that the society should run on both wheels.
- Gender-neutral laws should be implemented with the eradication of genderbiased laws 2. Men should be added in the Sexual Harassment in the Workplace 2012.
- Awareness should be spread regarding sexual violence against men in the form of campaigns, reports, articles etc.
- Just like there is a separate court for women, Mahila Adalat, a separate court should be made for men too.
- Separate commissions should be made which deals with research against crimes against men specifically and the same must be done for women too.
- Male and female perpetrators of sexual violence should be punished equally without any discrimination.
- Awareness and training camps are to be held by the government to promote domestic violence as violence against the whole of humanity instead of focusing only on one gender.

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