
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**DOMESTIC VIOLENCE: UNFOLDING THE DARK CHAPTER OF
WOMEN'S LIVES!**

- Smriti Agrawal and Priyanshu Parashar¹

ABSTRACT

The present research paper aims at invoking the thought-process of the readers of the same in understanding the plight of females that they undergo in infinite ways. Even in the 21st century, women are tortured in innumerable ways. One such manner is domestic violence, a despicable evil in the lives of women. This paper will give the readers an idea as to about what domestic violence is and its various forms – physical, mental, emotional, financial, cyber abuse. The Indian and worldwide aspect of domestic violence will also be exposed with the help of facts, figures and data. After that, the cause and effect relationship, i.e., what are the reasons of domestic violence, why women are suffering from it and the consequences of domestic violence on the physical and mental health of women will also be looked upon. The hike in the number of cases of domestic violence during lockdown due to Covid-19 pandemic will highlight the women being the worst sufferers of this pandemic. This paper, will then, takes the readers through the constitutional and human rights violation of women. The national laws relating to domestic violence such as Section 498-A of Indian Penal Code, 1860 and The Protection of Women from Domestic Violence Act, 2005 will be discussed. The Dowry Prohibition Act, 1961 is also relevant to talk when we discuss about the legislations regarding domestic violence. Some important and landmark Indian cases and judgments that are being decided on domestic violence will also be touched upon. At last, the entire discussion will be summed up by giving some suggestions and recommendations to eliminate the brutal practice of domestic violence and to reduce the pain and agony that women are victim to.

¹ Students at Lloyd Law College

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

Keywords - Domestic Violence, cases and judgments, Protection of Women from Domestic Violence Act (2005), Indian Penal Code (1860), Constitution of India, Global pandemic

“It doesn't matter how rich or poor person is, what gender or social class, or how much fame or education she possesses. Verbal, mental, and physical abuse can happen to anyone. It doesn't matter what a woman's ethnicity is because the only distinguishing color of abuse is black-and-blue.”

-La Toya Jackson

INTRODUCTION

What is the first thing that will come to our minds when we hear the word ‘violence?’ Have we ever thought of different forms of violence that females undergo when they are not born even? And if they would come into this world luckily, then also the life of a female is not smooth, they have to even suffer the worst all throughout their lifecycle.

STAGES OF LIFE	DIFFERENT FORMS OF VIOLENCE AGAINST FEMALES
PRENATAL	<ul style="list-style-type: none"> • Pre-birth elimination of females • Physical battery during pregnancy
INFANCY	<ul style="list-style-type: none"> • Female infanticide • Differential access to care, nutrition, healthcare, education
CHILDHOOD	<ul style="list-style-type: none"> • Child marriage • Child sexual abuse • Child prostitution
ADOLESCENCE	<ul style="list-style-type: none"> • Molestation • Eve-teasing • Rape • Incest • Sexual harassment at workplace • Forced prostitution • Trafficking

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

	<ul style="list-style-type: none"> • Violence associated with pre-marital pregnancy • Abortion • Kidnapping and abduction
YOUTH AND ADULTHOOD	<ul style="list-style-type: none"> • Domestic Violence • Marital rape • Dowry related abuse and murder • Homicide • Sexual harassment at workplace • Sexual abuse, Rape, Molestation • Desertion
OLD AGE	<ul style="list-style-type: none"> • Abuse of the elderly • Abuse of widows • Threat of sexual violence • Lack of access to care, nutrition and medical facilities

This table² illustrates both the distinct forms of violence against women and girls over the lifecycle ranging from discrimination at one end to overt physical and sexual violence at the other. In this research paper, we will specifically talk about domestic violence being another pain by another strain for women.

Now, let us talk about some facts and figures. According to a report of UN Women³:

- 1 in 3 women and girls experience physical or sexual violence in their lifetime, most frequently by an intimate partner.
- Only 52% of women married or in a union freely make their own decisions about sexual relations, contraceptive use and health care.

² International Center for Research on Women, *Violence Against Women in India: A review of trends, patterns and responses*, April 2004

³<https://www.un.org/en/events/endviolenceday>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

- Worldwide, almost 750 million women and girls alive today were married before their 18th birthday; while 200 million women and girls have undergone female genital mutilation (FGM).
- 1 in 2 women killed worldwide were killed by their partners or family in 2017.
- 71% of all human trafficking victims worldwide are women and girls, and 3 out of 4 of these women and girls are sexually exploited.
- Violence against women is as serious a cause of death and incapacity among women of reproductive age as cancer, and a greater cause of ill health than traffic accidents and malaria combined.

Some people might think of these figures as insane. But this is what it is! Have you ever try to analyze the pain and sufferings of a female. Just try to give it a thought to the brutality that women and girls, even in the 21st century, undergo. Even before a female child takes her first step in this world, she becomes the victim of the inhumane conditions of this world. Violence, in any form, is violence. And the perpetrators of the same signify the evilness inside them.

WHAT IS DOMESTIC VIOLENCE?

Have you ever wondered what actually domestic violence is? The word *Domestic Violence* is a combination of two different and independent words, i.e., ‘domestic’ and ‘violence’.

- **Oxford Dictionary** says that the word *domestic* derives from Middle English, from Old French *domestique*, from Latin *domesticus*, from *domus*, meaning “house”. Its meaning is “of or relating to the home, the household, household affairs, or the family.”
- **World Health Organization (WHO)** defines Violence as, “*intentional use of physical force or power, threatened or actual, against oneself, another person, against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal development or deprivation.*”⁴

⁴ WHO Multi-country study on Women’s Health and Domestic Violence against Women, World Health Organisation, Geneva, Switzerland, 2005

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

- **Domestic Violence** is defined as, “any form of bad treatment or abuse by an intimate partner or family members that takes place in any heterosexual, romantic relationship or domestic relationship.”⁵
- **United States Department of Justice Office on Violence against Women** defines it as, “a pattern of abusive behavior in any relationship that is caused by one partner to gain or maintain control over another intimate partner.”
- According to **The Protection of Women from Domestic Violence Act, 2005** it is, “any act, conduct, omission or commission that harms or injures or has the potential to harm or injure, whether physical or mental, to the aggrieved person, will be considered domestic violence by the law.”

It can happen with anyone regardless and irrespective of their race, caste, sex, religion, and origin. It could include anything like intimate threat, mental torture, hurt, humiliation, manipulation, blame, or any behavior of threat to any person. *Domestic Violence, what we can conclude from above definitions of various national and international forums, is a torturous abuse, physical or mental, done by intimate partner or family members, to gain some sort of control over the person being tortured.*

FORMS OF DOMESTIC VIOLENCE

Domestic Violence can be committed in different forms and all the forms are just a medium for the offenders to make the lives of women and girls hell. Some of the major types are discussed here.

- **PHYSICAL ABUSE**

Physical violence or abuse is one of the first forms of violence people think of when they hear the words domestic violence. It includes the use of physical force by an intimate partner or family members to the aggrieved person, ranging from pinching to murder. Physical abuse is easier to recognize because it is harder to disguise as the injury inflicted doesn't need to be a major one, even a minor injury can lead to domestic violence.

- **SEXUAL ABUSE**

Sexual violence or abuse is a difficult aspect of domestic violence, both to discuss and, at times, identify. It is not about sex. It is about power, and includes any sexual

⁵ The Protection of Women from Domestic Violence Act, 2005, Section 2(f)

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

behavior performed without a partner's consent. Some of the examples of sexual abuse are human trafficking, hurting partner physically during sex, pursuing sexual activity without the consent of the partner or *marital rape*, coercing partner to have sex without contraceptives, and much more.

- **FINANCIAL ABUSE**

Financial abuse is unknown, yet common form of domestic violence. It is when an abusive partner extends their power and control into the area of finances. This abuse can take different forms, for example, giving an allowance and closely watching how the victim spend it or demanding receipts for purchases, preventing the partner from viewing or having access to bank accounts, forbidding to work or harassing their partner at workplace, stealing money from the partner or the partner's family and friends, and what not.

- **EMOTIONAL ABUSE**

Emotional, mental or psychological abuse is, sometimes, harder to define and recognize. A bruise will heal but the damage to a person's self-esteem may last forever. It occurs when an intimate partner or family members seek to control the victim by insulting, blaming the partner for everything, extreme jealousy, intimidation, shaming and humiliating, isolation, controlling where the partner goes and what the partner does, and every other means by which the victim is traumatized mentally or psychologically.

- **CYBER ABUSE**

It includes the use of technology or computer or networks to control, stalk or bully the partner. Abusers use different techniques like checking partner's cell phone, threat calls or sending threatening texts or messages, stalking partner's social media accounts, using GPS to monitor partner's location, posting or menacing to post embarrassing photos or videos. In this techno-savvy world, cases of cyber abuses are taking toll.

Every third women, since the age of 15, has faced domestic violence of various forms in India. 31% of married women have experienced physical, sexual, or emotional violence by

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

their spouses. The most common type of spousal violence is physical violence (27%), followed by emotional violence (13%).⁶

DOMESTIC VIOLENCE: FACTS AND FIGURES

Let's have a look at the facts and figures regarding the issue of domestic violence nationally and internationally too. This will give a clear depiction as to what is the level of inhumanity that women and girls are made victim to. The facts, figures and data will add to the intellect of the readers and might invoke them to take actions against this demon at their individual and collective levels.

INDIAN SCENARIO

If women were treated equally in India, the number of males and females in India should have been equal. The population of India, in the year 2020, is estimated close to 138 crores, of which, 71.7 crores are males and 66.3 crores are females.⁷ According to 2011 census, the sex ratio rate is 940 females per 1000 males. The question arises here is that where are the 60 missing females? The answer is predictable. Some are never born, the rest die because they are not given the opportunity to survive. Paving our way back to history, the condition of women in India was not too superior and nothing has changed much till date; women have been harassed in the same way as they had been. Ours is a society having mentality as the women of the household are required to prepare the meal for all the members of the family, who eat most of the food. Only after husband and the other family members are finished eating, can the females eat. Women are believed to be the property of husband and it is her prime duty to obey each and every order of her husband, no matter whether he is right or wrong. A 2014 study in *The Lancet* reports that although the reported sexual violence rate in India is among the lowest in the world, the large population of India means that the violence affects 27.5 million women over their lifetimes.⁸ However, a survey carried out by

⁶ National Family Health Survey, Union Ministry of Health and Family Welfare, India, 2018

⁷<https://www.statisticstimes.com>

⁸*Sexual Violence and Rape in India*, The Lancet, Volume 383, 2014

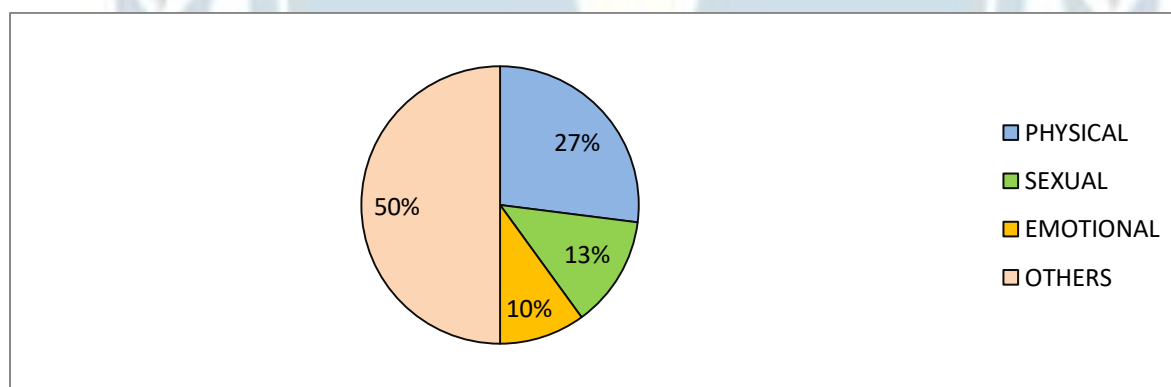
For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

The Thomson Reuters Foundation ranked India as the most dangerous country in the world for women.⁹

In a recent study, it was founded that 1 in every 3 women faces brutal domestic violence in one or another form by her partner or from members of either natal or marital home or from both. There are number of forms in which these vulnerable women are exploited, i.e., physically, emotionally, sexually, beaten up for dowry, etc.

Marital rape is one of the crimes which have been faced by lots of women. In a survey conducted by *National Health and Family Survey (NHFS-4)* for the year 2015-16, about 5.6% women have been reported as victims under the category of “physically forced her to have sexual intercourse with him even she did not want to.” While the data on marital rape in India exists, marital rape as a crime does not exist.

According to *NHFS-4*, the physical violence is more prevalent among other forms of DV. The statistics given by *NHFS-4* is as follows:



In 2012, a report of *NCRB* states that 8,233 dowry death cases were reported across India, or dowry issues cause 1.4 deaths per year per 100,000 women in India.

According to the data from the '*Crimes in India - 2018*' report compiled by the *National Crime Records Bureau (NCRB)*, a total of 89,097 cases related to crimes against women were registered across India in 2018. The figures indicate not much has improved when compared to the figure of 86,001 cases registered under this head in 2017. The crime rate per lakh women population is 58.8 in 2018 in comparison to 57.9 in 2017. Out of the total crimes registered under the Indian Penal Code against women, the majority of the cases were registered under the '*cruelty by husband or his relatives*' at 31.9%. This was followed by '*assault on women with intent to outrage her modesty*' at 27.6%. The cases of the '*kidnapping*

⁹*The World's Five Most Dangerous Countries for Women*, Thomas Reuters Foundation, 2018

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

and abduction of women’ stood at 22.5% and the rape cases comprised 10.3% of the overall crime figures.

It is a stereotype in Indian society that women who wear fashionable attires or chill-out in clubs and parties are more likely to fall prey to these crimes than the women who are pretty poor or are not well-off, but it will be surprising to know that the women living in rural areas are more prone to these crimes than the women living in urban areas. Approximately 68% of India’s total population lives in rural areas which enhance the risk of engagement in domestic violence in these areas. Women in the villages are more vexed by their male partner or their families. They are beaten up or harassed by their male counterpart for dowry, incapability to bear child, unwanted sexual intercourse. Women in rural areas (36%) are more likely than those in urban areas (28%) to experience one or more forms of spousal violence.¹⁰

According to *National Crime Records Bureau Survey Report of 2018*, the most perilous state for women in India (according to crime cases against women) was *Uttar Pradesh* (59,445) followed by *Maharashtra* (35,497), *West Bengal* (30,394), *Madhya Pradesh* (28,942) and *Assam* (27,728) respectively.

It is an astonishing fact that around 30% of women in India suffer domestic violence but only 2% of them actually lodge the FIR against the offenders. This, evidently, shows that the reporting rate of crimes is relatively very much low in India. The main reason behind this is that in India, the females are brought up with the ideology that their husbands are their Gods, it is the duty of theirs to respect them and not to utter anything disrespecting against them. The women can keep their self-respect at stake but they will not raise voice against their husbands. The other reasons could be the fear that their husbands might leave them, fear of facing unpleasant remarks and comments of the society, fear from police as the police officers, instead of registering their complaints and take immediate actions, do the character assassination of the females. In spite of having fast-track courts, the speedy disposal of cases is a long way to go. These are only few reasons why women don’t report the cases; there are a number of more reasons behind the same.

INTERNATIONAL ASPECT

¹⁰*Domestic violence and its determinants among 15–49-year-old women in a rural block in South India*, IJCM, Volume 44, Issue 4, 2019

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

In the majority of countries with available data, less than 40% of the women who experience violence seek help of any sort. Among women who do, most look to family and friends and very few look to formal institutions and mechanisms, such as police and health services. Less than 10% of those women seeking help for experience of violence sought help by appealing to the police.¹¹ At least 144 countries have passed laws on domestic violence, and 154 nations have laws on sexual harassment. However, even when laws exist, this does not mean that they are always compliant with international standards and recommendations or implemented.¹²

Availability of data on domestic violence against women has increased significantly in recent years. Comparable national prevalence data on intimate partner violence for the period 2005-2017 are available for 106 countries.¹³ This data might have given the readers an understanding relating to the condition of women and how they are treated rather exploited. At the national as well as international levels, the situation of women and girls is scary and frightful.

COVID-19 AND DOMESTIC VIOLENCE

This year, on March 25, due to rapid increase in cases of *COVID-19 pandemic*, the Government of India imposed a complete lockdown in the country. It limited citizens to stay inside their house and not to come out or to commute. It was imposed to reduce spread of the contagious disease but it became an awful situation for women, due to increment in the instances of domestic violence. The situation isolated people, exposing women to stay with perpetrators within four walls and gave perpetrators free hand to harass his spouse and there is no doubt to say that the rate of reported domestic violence and gender-based harassment cases has also gone up drastically. A report prepared by *NALSA*¹⁴ documents showed that a total of 144 cases of abuse were filed in Uttarakhand alone followed by increasing cases in Haryana and New Delhi. The cases of domestic violence doubled during the period of lockdown.

¹¹*The World's Women 2015, Trends and Statistics*, United Nations Economic and Social Affairs

¹²*Women, Business and the Law 2018*, World Bank Group

¹³*SDG's Global Database*, Inter-Agency and Expert Group on SDG Indicators

¹⁴ National Legal Services Authority, India

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

During the first four phases of the Covid-19 lockdown, (March 25, 2020 to May 31, 2020), Indian women made 1,477 complaints of domestic violence.¹⁵ This raised the question about whether domestic violence is the next pandemic in India. WHO says that the cases of violence against women escalated and warned that it will escalate further during the crisis. It further added that they reported a sharp climb in cases of this cruelty during this period. Dr. Ramiz Alakbarov, Deputy Director of United Nations Population Fund, said that if the lockdown continues for six months then case count of domestic violence can increase to thirty millions.¹⁶ According to a survey, crimes like murder, kidnapping, robbery and rape in metro-cities like Delhi, Bengaluru and Kolkata have observed 60-90 percent reduction but observed a drastically increase in domestic violence cases.¹⁷ Moreover, most of the cases were reported from Northern States of India. A study by Daniel Schneider at UC Berkeley founded that unemployment and poor financial condition among men led to abusive behavior during these types of recession period; it became more likely to increase of violence with their romantic partner.

CAUSES OF DOMESTIC VIOLENCE

There are many myths about the causes of violence against women.¹⁸ So far domestic violence against women in India is concerned; it is a manifestation of gender inequality within the family system, cultural beliefs, patriarchal social norms, superstitions, poor law and order situation and the extreme low valuation of female life. Poverty, alcoholism, unemployment, frustration may also be causing factor of violent behavior.¹⁹ Let us take a brief at some of the causes of domestic violence against women.

- **FINANCIAL DISTRESS**

Economy plays a major role in one's life. In one hand, it helps in upliftment of one's lifestyle; on the other hand, it becomes the reason of someone's deterioration.

¹⁵ Zarafshan Shiraz, *Alert others about Domestic Violence with this hand signal for help*, September 5, 2020

¹⁶ Haley Ott, *6 Months Of Coronavirus Lockdown Could Mean 31 Million More Cases Of Domestic Violence*, CBS NEWS, April 28, 2020, <https://www.cbsnews.com/news/domestic-violence-additional-31-million-cases-worldwide/>

¹⁷ <https://thefederal.com/covid-19/covid-19-lockdown-brings-down-crime-rate-barring-domestic-abuse-cases/>

¹⁸ Reid and Sheila, *Preventing Violence Against Women: A European Perspective*, 2003

¹⁹ Misra and Preeti, *Domestic Violence Against Women in India: Juristic Norms, Legal Control and Judicial Response*, Law Review Volume 23&24, 2003

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

Economic or financial stress is one of the major causes of domestic violence. It is the feeling of stress due to the current state of one's personal finances and/or due to fear about the economy.²⁰ Studies that have examined domestic violence across social classes show a strong inverse relationship between financial status and a woman's risk of victimization: as social class increases, the likelihood of domestic violence decreases. This does not mean that middle-class and wealthier women are immune from this evil, and the observed relationship may be due in part to the ability of middle-class and more affluent women to keep domestic violence victimization hidden. Nevertheless, the consistency of the finding across studies using a variety of samples and methods indicates that the relationship is a significant one.²¹ The perpetrators end up beating their spouses because of financial distress, job insecurity, poverty, or stretchable demands for dowry.

- **MALE CHAUVINISM**

There is an inherent belief in the society regarding the superiority of men since times immemorial. This includes male chauvinism, patriarchal nature of society, masculinity. The notion that the women are subordinate to men leads to violence with women. Men consider women and girls as the shoe of their feet. They want to establish every sort of control over their intimate partners, leading to the committal of domestic violence against women and girls.

- **SOCIALIZATION**

The real killer of woman is gender based socialization and imposition of ill customs on women who are maltreated behind closed doors in the forms of various types of violence. The husband knows that his wife's social standing, status, and prestige depend on him and therefore she will not leave him, no matter what the consequences of her choice to remain at his side may be. It has also been observed that the persistence with which Indian women stay in relationship, hoping that one day her husband will change, matches the persistence of the husband's brutality both mentally and physically.²²

²⁰ Economic Stress, <http://brown.edu/>

²¹ Claire M. Renzetti & Vivian M. Larkin, *Economic Stress and Domestic Violence*, 2009 <https://vawnet.org/material/economic-stress-and-domestic-violence>

²² Adams and Others, *Handbook of World Families*, 2005

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

- **ALCOHOLISM AND DRUGS**

Alcohol use has been reported in between 25% and 85% of incidents of battering and up to 75% of acquaintance rapes.²³ Considerable research links drinking and alcohol abuse to physical aggression, although adult consumption patterns are likewise associated with other variables related to violence. The relationship of alcohol to intimate partner violence could be spurious, but the relationship of men's drinking to intimate partner violence remains even after statistically controlling for socio-demographic variables, hostility, and marital satisfaction.²⁴ Men's drinking patterns, especially binge drinking, are associated with marital violence across all ethnic groups and social classes.²⁵

The reasons discussed above are not absolute. These are some of the main causes of domestic violence against women. The other causes could be illiteracy, gender inequality, need for power and control in a relationship, frustrations, anxiety, stress, depression, isolation, and what not. The reasons and the ways for torturing a woman are uncountable and the worst thing is that the victims do not even feel victimized.

CONSEQUENCES OF DOMESTIC VIOLENCE

Violence not only causes physical injury, it also undermines the social, economic, psychological, spiritual, and emotional well-being of the victim, the perpetrator and the society as a whole. Domestic Violence is a major contributor to the ill health of women. *It has serious consequences on women's physical health, including their reproductive and sexual health such as injuries, ranging from lacerations to fractures and internal organs injury; unwanted pregnancies, gynecological problems, STDs including HIV/AIDS, miscarriage, pelvic inflammatory diseases, chronic pelvic pain, headaches, permanent disabilities, asthma, irritable bowel syndrome, self-injurious behaviors.*²⁶

Many forms of verbal and psychological abuse appear relatively harmless at first, but expand and grow more menacing over time, sometimes gradually and subtly. As victims adapt to

²³ Kantor and Straus, 1987; Muehlenhard and Linton, 1987; Koss et al, 1988

²⁴ Leonard and Blane, 1992; Leonard, 1993

²⁵ Kantor, 1993

²⁶ *Violence against Women*, WHO Consultation, 1996

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

abusive behavior, the verbal or psychological tactics can gain strong ‘foothold’ in victims’ minds, making it difficult for them to recognize the severity of the abuse over time.²⁷ *The mental health outcomes include depression, fear, anxiety, low self-esteem, sexual dysfunction, eating problems, Obsessive Compulsive Disorder, Post Traumatic Stress Disorder. The fatal outcomes include suicide, homicide, and maternal mortality.*²⁸

Children who have witnessed domestic violence or have themselves been abused, exhibit health and behavioral problems, including problems with their weight, their eating and sleep.²⁹ *They may have difficulty at school and find it hard to develop close and positive friendships. They may try to run away or even display suicidal tendencies. Perhaps the most crucial consequence of violence against women and girls is the denial of fundamental human rights to women and girls.*³⁰

DOMESTIC VIOLENCE: INDIAN LAWS AND LEGISLATIONS

It is expressed in the *preamble of the Indian Constitution* to solemnly resolve to secure *social, economic and political justice, liberty, equality and dignity to every person, man and woman*. Indeed, this classic declaration laid a foundation for gender justice jurisprudence in 1950. Here what the question arises is that is it really practiced in our society? The answer is NO, a big NO.

Article 14 (right to equality before law); Article 19(1)(a) (right to freedom of speech and expressions); Article 21 (right to live with dignity and personal liberty; Article 51A(e) (denounces all practices derogatory to the dignity of women), are some of the fundamental rights³¹ of women which are being violated due to the sufferings of domestic violence.

LEGAL PROVISIONS

²⁷ National Center on Elder Abuse, Washington DC, 2005

²⁸ *Violence against Women*, WHO Consultation, 1996

²⁹ Jaffe P.G., Wolfe D.A. and Wilson S.K., *Children of Battered Women, Developmental Clinical Psychology and Psychiatry*, Volume 21, Sage Publications, California, 1990

³⁰ *Domestic Violence against Women and Girls*, UNICEF, 2000

³¹ Indian Constitution

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

Domestic Violence is undoubtedly a human rights issue and serious deterrent to development. It will not be a surprising fact to know that domestic violence was recognized as a crime in 1983 only; it took this much time to recognize a heinous crime of domestic violence as a crime.

Section 498-A of Indian Penal Code, 1860³²

It was inserted by the Criminal Law (Second Amendment) Act, 1983 on December 26, 1983. Before the insertion of this section, such cases of cruelty were dealt with by the general provisions such as assault, grievous hurt and all. This section has, somewhat, opened the doors of justice for women who suffer harassment at the hands of their husbands or relatives. *This section defines the offence as the act of cruelty, including physical and mental harm, against a woman by her husband or relatives of that husband shall be punished with imprisonment for a term of 3 years and is also liable to a fine. The offence under Section 498-A is a cognizable and non-bailable offence. Also, under this section, any aggrieved woman or any individual related to her by blood, marriage and adoption may file a complaint against the offender, or in any case, a public servant may be notified by the State Government on this behalf.*³³

In *Rupali Devi v. State of UP*³⁴, the petitioner faced cruelty in her matrimonial home and went to her parental home and filed a complaint under section 498A against her husband and in-laws from there. The court held that, “*the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code.*” They further stated the object behind this section was to “*combat the increasing cases of cruelty by the husband and the relatives of the husband on the wife, which leads to commission of suicides or grave injury to the wife*”.

In *Shobha Rani v. Madhukar Reddy*³⁵, Supreme Court gave a new dimension in concept of cruelty and said, “*any willful conduct which is of such a nature as is likely to drive a woman*

³² Act 45 of 1860

³³ Aslam and Sahista, *Domestic Violence in India and Legal Provisions*, 2019

³⁴ Criminal Appeal No. 71 of 2012

³⁵ 1988 SCR(1) 1010

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

to commit suicide or likely to cause grave injury or danger to life, limb or health (whether mental or physical of the woman), and harassment of the woman with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security would constitute cruelty.”It was further held that the cruelty need not be only intentional, willful or deliberate and not necessary to prove the intention in matrimonial offence.

Dowry Prohibition Act, 1961³⁶

This act was enacted to prevent the giving or receiving of dowry. Under this act, dowry includes property, goods, or money given by either party to the marriage, by the parents of either party, or by anyone else in connection with the marriage. The offence committed under this act is both non-cognizable and non-bailable. This act is relevant to cite here because of the reason that women and girls also face domestic violence because of the demands of dowry by their husbands or their relatives.

In *Kamesh Panjiyar @ Kamlesh Panjiyar v. State of Bihar*³⁷, Supreme Court held that under Section 304 of IPC it was not necessary to give direct evidence of causing death, even cruelty before death is enough. In *Thathamsetty Suresh v. State of A.P*³⁸, Supreme Court held that conviction in dowry related cases could be done on the basis of circumstantial evidences also.

The Protection of Women from Domestic Violence Act, 2005³⁹

The Vienna Accord of 1994 and *The Beijing Declaration and the Platform for Action 1995* have acknowledge intimate partner violence as a serious issue of human rights violation. *The United Nations Committee on Convention on Elimination of All Forms of Discrimination against Women* in its General Recommendation No. XII (1989) has recommended that State parties should act to protect women against violence of any kind especially that occurring within the family. In order to this recommendation, the Parliament of India, enacted *The Protection of Women from Domestic Violence Act, 2005* 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 matter connected therewith.

³⁶Act 28 of 1961

³⁷(2005) 2 SCC 388

³⁸ (2010) 13 SCR 890

³⁹ Act 43 of 2005

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

The main highlights of this Act are –

- *This act has a wide ambit; it not only includes physical abuse but also mental, psychological, or emotional abuse too.*
- *This act is primarily concerned with women, including wife, sister, widow, mother-in-law, mother, live-in partner.*
- *This act empowers the State Government to appoint the Protection Officer in each district, who assists the Magistrate in the discharge of his functions.*
- *The State Government should ensure free legal aid to the aggrieved woman, if required, safe shelter home for woman, medical examination, and such other duties as may be laid down by the Central Government.*
- *The monetary reliefs can be given to aggrieved woman to meet expenses or losses.*

In *Lalita Toppo v. State of Jharkhand*⁴⁰, the appellant was living in a live-in relation and had a child. After parting she claimed maintenance from her partner which he refused to pay. Apex Court in this case held that though she is not legally wedded wife and thus not entitled to get maintenance under Section 125 of CrPC, 1973. Court further stated that “*under the provisions of the Domestic Violence Act, the victim i.e. estranged wife or live-in-partner would be entitled to more relief than what is contemplated under Section 125 of the CrPC i.e. to a shared household also.*”

But in *Reshma Begum v. State of Maharashtra*⁴¹, High Court clarified that “*not all live in relationships are covered under the provision of Section 2(f) of the Domestic Violence Act. It is only those which qualify to be the relationships in the nature of marriage are governed by that provision.*”

Despite having so many effective legislations and safeguards, the women are still suffering the worst. The protection of human rights of women should be on the top of everything. There is a need to give equal respect to women and stop considering and treating them as punching bags.

CONCLUSION

⁴⁰ (2018) SC 2301

⁴¹ <https://indiankanoon.org/doc/186374043/>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

After a very lengthy discussion on the topic that is the need of the hour to be tackled, we have come to an end of the same. We have started with a table showing different forms of violence at different stages of life a woman suffers. This led us to the concept of domestic violence, its meaning and its various forms – physical, mental, emotional, sexual, financial and even technological abuse. After that, as we proceed further, we looked at the statistics regarding domestic violence both at national and international levels, depicting a clear and terrible picture of the harassment and brutality that women are exposed to. The low rate of reporting of crimes in the police station and if some cases are reported, some police officers, instead of taking cognizance in the matter, outrage the modesty of the victim. In our further discussion, we have tried to look at the reasons of domestic violence as in why the women are more inclined towards this kind of harassment. The research led us to some of the reasons – male chauvinism or patriarchal norms of the society, alcoholism and drugs, financial stress, frustrations, socialization of women from her early childhood to bear the violence, fear of being character assassinated by the society and what not. After the reasons pertaining to domestic violence, we looked at the after effects of the same – physical, mental and sexual health problems in women, increasing suicidal tendencies, homicides, and adverse effects on the minds of the children experiencing domestic violence. Then, we paved our way forward to the Indian laws and legislations – Section 498-A of Indian Penal Code; Dowry Prohibition Act, 1961; The Protection of Women from Domestic Violence Act, 2005. In spite of having so many legislations, the fundamental and constitutional rights of women are continuously being violated. The relevant case laws and judgments have also been discussed in the same line.

We have discussed so many things, let us also talk about some of the measures, if implemented, would help us to get away with the problem of domestic violence, sooner or later. Some of the suggestions and the recommendations are as follows:

- The first and foremost being awareness of rights and responsibilities, awareness of rights for women and awareness of responsibilities for perpetrators. The education and awareness campaigns must be commenced at massive levels.
- The second suggestion being proper implementation of policies at grass root level. The laws and legislations need to be implemented properly to have an effective execution.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

- The individual and collective efforts in eradicating domestic violence are of utmost importance. Therefore, the third suggestion is to help people around who are in need of the same.
- Helping government and respective authorities like NGO's is the duty of every citizen. We should co-operate with them to eliminate the derogatory practice of domestic violence.

If these suggestions are implemented even at a small level, the results would be as big as saving a life of a person. Summing up the whole arguments, we have to contribute something or the other for the betterment of women and for the betterment of the society as well.

We would like to appeal to each and every woman out there –

You have been suffering since forever, without a word, and are still expected to be silent.

But not even a single slap should be tolerated and justified in the name of saving the relationship. It's 21st century ladies, let's stand up for you!!

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>