

ENFORCING DOMESTIC VIOLENCE LAW IN INDIA: ISSUES AND CHALLENGES

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Abstract

Domestic violence, also referred as abuse of intimate partners, is a widespread and prevalent issue that affects people of all ages, sexes, ethnicities, and economic groups. It is defined by abusive acts committed by one spouse against another in a sexual or family relation. Physically, sexually, emotional, mental, and economic abuses are all examples of abusive behaviours. The significances of domestic viciousness can be devastating, both for the victim and for any children involved. Victims may experience physical injuries, psychological trauma, and decreased self-esteem, while children may suffer from anxiety, depression, and behavioural problems. Domestic violence also has broader societal implications, including decreased productivity, increased healthcare costs, and strain on the criminal justice system. Despite increased awareness of domestic violence in current periods, it remains a significant difficult in many portions of the world. This paper will be discussing introduction domestic violence, causes, issues, laws, cases, prevention and conclusion.

Keywords: *Violence, Mental Abuses, Torture, Injuries, Criminal Justice.*

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INTRODUCTION

Domestic violence is a major issue in India, impacting men, women, and children. It is a kind of harm that can take many forms, include physically, sexually, psychological, and financial abuse. Domestic violence is a crime against humanity, and the sufferers can suffer serious psychological as well as physical harm. Domestic abuse is a deep established social issue in India, affecting people from all socio, financial, and religious origins. Gender discrimination, societal standards, and patriarchal views that promote the concept that men are bigger to women and that women should be obedient and faithful to their spouses are frequently at the bottom of it.¹

Even though domestic violence is a serious crime in India, it remains largely underreported and victims often face significant barriers when seeking justice. These barriers can include fear of retaliation, lack of access to legal services, and social stigma associated with being a victim of domestic violence. However, much more needs to be done to create a society where domestic violence is not tolerated and victims are provided with the support and resources, they need to escape abusive situations.²

Domestic violence is not a new occurrence and has existed throughout history in various forms. However, the issue has not always been recognized or addressed as a serious problem. In ancient times, domestic violence was often accepted as a way for men to assert their authority over women and maintain control over their households. In some cultures, it was even

¹ Jeyaseelan et. al., "Domestic Violence and Its Mental Health Correlates in Indian Women" *British Journal of Psychiatry* Volume 190, Issue 1 (2007).

² Singh et al., "Domestic Violence in India: Causes, Consequences, and Remedies" *International Journal of Innovation and Scientific Research* Volume 10, Issue 2 (2014).

considered to be a man's right to discipline his wife and children. During the middle Ages, the Christian Church played a significant role in shaping attitudes towards domestic violence. The Church considered marriage to be a sacred institution and encouraged wives to submit to their husbands, even if they were abusive. It was not until the Protestant Reformation in the 16th century that attitudes towards domestic violence began to shift, and the idea of marriage as a partnership between equals gained popularity.³

In the 19th and early 20th centuries, domestic violence was largely ignored by society, and victims had few legal protections or resources to escape abusive relationships. In India, the difficult of domestic violence gained national attention in the 1980s when the Indian women's movement began to draw attention to the problem. The movement was successful in raising awareness about domestic violence and advocating for legal reforms that would protect victims. Today, domestic violence is recognized as a serious crime in many countries, and there are laws and resources available to help victims escape abusive relationships and hold perpetrators accountable for their actions.⁴

OBJECTIVES

The objectives related to domestic violence in India can be summarized as follows:

- Prevention of domestic violence: The primary objective is to prevent domestic violence in all its forms, including physical, emotional, sexual, and economic abuse. This can be achieved

³ *Ibid.*

⁴ *Ibid.*

through various measures such as education, awareness campaigns, legal provisions, and counselling services.

- Protection of victims: Another important objective is to provide adequate protection and support to victims of domestic violence.
- Punishment of perpetrators: It is important to hold perpetrators of domestic violence accountable for their actions. This can be achieved through strict enforcement of laws against domestic violence and ensuring that perpetrators are brought to justice.
- Empowerment of women: Domestic violence is often rooted in gender inequality and discrimination against women. Therefore, an important objective is to empower women by providing them with education, employment opportunities, and access to healthcare and other basic services.

CAUSES OF DOMESTIC VIOLENCE

- Gender Inequality: In many cultures, women are considered to be subordinate to men, and this can lead to violence when men perceive that their authority is being challenged.⁵
- Economic Factors: Economic insecurity can be a significant contributing factor to domestic violence. When there is financial stress in a relationship, it can lead to tensions that result in violence.⁶
- Substance Abuse: Alcohol and drug abuse can contribute to

⁵ *Ibid.*

⁶ Muralidhar and Singh, "Domestic Violence and Women's Mental Health in India" *Social Science and Medicine* Volume 65, Issue 6 (2007).

domestic violence. Substance abuse can lower inhibitions, increase aggression, and lead to irrational behaviour.

- **Social Isolation:** Isolation from family and friends can leave victims of domestic violence without a support network, which can make it harder to escape an abusive relationship.
- **Cultural Norms:** Cultural norms that endorse violence or condone abusive behaviour can contribute to domestic violence.
- **Communication Issues:** Poor communication skills, including an inability to resolve conflicts effectively, can lead to tension and violence in a relationship.

ISSUES OF DOMESTIC VIOLENCE

Here are common issues related to domestic violence:⁷

- **Underreporting:** Many victims of domestic violence do not report their abuse to authorities or seek help due to fear, shame, or a lack of trust in the fairness organization.
- **Stigma:** Domestic violence is still stigmatized in numerous cultures, and victims often face social stigma, blame, or judgment for their abuse.
- **Access to Services:** Victims may face barriers in accessing services such as healthcare, legal aid, or social support due to a lack of resources, geography, or cultural barriers.

⁷ Ghosh and Prasad, "Domestic Violence in India: A Comparative Study of Rural and Urban Women" *Indian Journal of Social Work*, Volume 76, Issue 1 (2015).

- **Victim Blaming:** In some cases, victims may be blamed for the abuse they experience, which can lead to further victimization and psychological harm.
- **Patriarchal Norms:** Societal norms that reinforce patriarchal values, gender roles, and power dynamics may contribute to the prevalence of domestic violence.
- **Child Protection:** Domestic viciousness can disturb youngster protection and access arrangements, which can create a dangerous environment for children and perpetuate abuse.
- **Intersectional Oppression:** Domestic violence can intersect with other forms of oppression, such as racism, homophobia, transphobia, ableism, or classism, which can compound the impact of abuse on victims.
- **Economic Dependence:** Victims may be economically dependent on their abuser, which can make it difficult for them to leave the abusive relationship or seek help.
- **Legal Loopholes:** Some legal loopholes may allow abusers to escape prosecution or punishment or may provide insufficient protection for victims.
- **Lack of Resources:** Lack of resources, funding, and political will can hinder efforts to prevent domestic viciousness and deliver adequate support for sufferers.

LAWS DOMESTIC VIOLENCE IN INDIA

India has several laws in place to address domestic violence and provide protection for sufferers. Here are some of the most important laws related to domestic violence in India:

Protection of Women From Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act (PWDVA) is a comprehensive legal framework enacted in 2005 in India to safeguard women from domestic violence. The act purposes to deliver active remedies to women who are sufferers of domestic violence and to stop the incidence of domestic viciousness in culture.⁸

The act delivers several reliefs and remedies to the victim of domestic violence, including safety instructions, house instructions, financial assistances, and protection instructions for children. A victim can approach a magistrate or a Protection Officer to seek any of these reliefs. The act also delivers for the employment of Protection Officers who are responsible for assisting the victim and ensuring that the orders of the court are followed. The act is gender-neutral, which means that it recognizes that men can also be victims of domestic violence and provides them with legal remedies. However, in practice, the vast majority of victims of domestic violence are women. The act is a significant step towards addressing domestic violence in India and has helped to increase awareness about the issue. However, there are still challenges in effectively implementing and enforcing the act, including a lack of awareness and resources, social stigma, and cultural attitudes that perpetuate violence against women.

⁸ Deshmukh et al., "Domestic Violence Against Women in India: An Overview" *Journal of Health Research and Reviews* Volume 1, Issue 1 (2014).

Indian Penal Code, 1860

The Indian Penal Code, which was enacted in 1860, contains several provisions that can be used to prosecute perpetrators of domestic violence in India. These requirements are not specific to domestic violence but can be applied in cases of domestic violence.⁹

Some of the sections of the IPC that can be used to prosecute perpetrators of domestic violence include:

- Section 498A: This section deals with cruelty by husband or his relatives.
- Section 304B: This section deals with dowry death.
- Section 323: This section deals with voluntarily causing hurt.
- Section 354: This section deals with assault or criminal force to woman with intent to outrage her modesty.

Dowry Prohibition Act, 1961

The law provides for punishment for those who give or take dowry, as well as for those who demand it. The act also makes it an offense to demand dowry from the bride or her family, and anyone who demands dowry can be punished with imprisonment for a term that can range from six months to two years, along with a fine. While the Dowry Prohibition Act does not specifically address domestic violence, it has been used in several cases to

⁹ Babu and Kar, "Domestic Violence in India: A Systematic Review" *Journal of Interpersonal Violence*, Volume 25, Issue 2 (2010).

prosecute perpetrators of domestic violence who have demanded dowry from their wives or their families. The act is an essential legal framework in India to address the issue of dowry and its connection to domestic violence.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

This law aims to prevent and redress sexual harassment of women at the workplace. It defines sexual harassment broadly and requires all employers to establish a mechanism for receiving complaints and conducting investigations. Under the act, every workplace with more than ten employees is required to set up an Internal Complaints Committee (ICC) to deal with complaints of sexual harassment. The ICC is mandated to receive complaints of sexual harassment, conduct an inquiry into the matter, and recommend appropriate action against the accused. The act provides for several remedies to victims of sexual harassment, including monetary compensation, transfer of the accused, and termination of the accused. It also prohibits retaliation against the victim of sexual harassment, and any such act of retaliation is considered an offense under the act.¹⁰

CASES RELATED TO DOMESTIC VIOLENCE IN INDIA

In *Lalita Kumari v. Government of Uttar Pradesh*¹¹: This case established guidelines for the registration and investigation of complaints of domestic violence and other criminal offenses, including the requirement to register an FIR and conduct a preliminary inquiry in certain circumstances. The case involved a complaint by a woman who alleged that she had been kidnapped

¹⁰ *Ibid.*

¹¹ AIR 2014 SC 187.

and raped, but the police refused to register her complaint. The Court held that the police have a duty to register an FIR in all cases where a cognizable offense has been alleged, and to conduct a preliminary inquiry if necessary. The court also laid down guidelines for the registration and investigation of complaints, including the requirement to record the complainant's statement, conduct a site inspection, and obtain medical examination reports in certain circumstances. The case is often cited as an important precedent for protecting the rights of sufferers of domestic viciousness and other crimes.

In *S.R. Batra and Anr. v. Taruna Batra*¹² involved a woman who filed for divorce from her husband, citing cruelty and harassment by her husband and in-laws. The husband and in-laws countered by filing a defamation suit against the wife, claiming that her allegations of cruelty were false and had damaged their reputation. The Supreme Court of India held that the filing of a defamation suit by the husband and in-laws was a form of harassment and retaliation against the wife, and it ordered that the defamation suit be quashed. The court also noted that allegations of cruelty and harassment by the wife must be taken seriously and investigated by the appropriate authorities. The case is significant because it recognizes the right of women to seek redress for domestic violence and harassment without fear of retaliation, and it emphasizes the importance of investigating allegations of domestic violence.

In *State of Haryana v. Bhajan Lal*¹³ this case involved a complaint by a woman who alleged that she had been threatened and assaulted by her husband and his associates, and that the police had failed to take appropriate action. The

¹² AIR 2007 SC 1118.

¹³ AIR 1992 SC 604.

Court held that the police had failed to perform their duty to protect the woman and to investigate the complaint, and that there was evidence of political interference in the case. The court laid down guidelines for preventing and addressing the misuse of power by public officials, including the requirement for police officers to register FIRs in all cognizable offenses, and the appointment of a commission to investigate complaints of corruption and abuse of power by public officials. The case is significant because it established legal mechanisms for preventing and addressing the misuse of power by public officials, and it emphasized the importance of defending the privileges of victims of violence & abuse.

PREVENTION DOMESTIC VIOLENCE

Here are some of the ways in which domestic violence is prevented in India:

- *Legal Remedies:* The PWDVA provides for various legal remedies such as safety instructions, dwelling instructions, financial help, safekeeping instructions, & reimbursement to the victim. These remedies are aimed at protecting the victim from further abuse and providing her with a means of seeking redress.
- *Police and Judicial Intervention:* The police and the judiciary have an essential part to performance in the prevention of domestic violence. The police are responsible for registering complaints and investigating cases of domestic violence, while the judiciary provides the legal framework for the protection of victims and the prosecution of perpetrators.
- *Education and awareness:* Education about domestic violence and its impact should be provided to both men and women, especially to

those in vulnerable communities. This can be done through awareness campaigns, community workshops, and school education programs.

- *Legal reforms:* Governments should enact and enforce laws that protect victims of domestic violence and ensure that abusers are held accountable for their actions. This includes creating dedicated domestic violence courts, training law enforcement officials and judges, and providing legal aid to victims.
- *Economic empowerment:* Economic empowerment programs should be established to enable women to become financially independent and reduce their dependence on their partners. This can be done through microfinance programs, vocational training, and job creation initiatives.
- *Men's involvement:* Men should be actively involved in the fight against domestic violence. This can be done through programs that educate men about gender equality and the harm caused by domestic violence and by encouraging men to become role models for respectful and non-violent behaviour.
- *Community Mobilization:* Community mobilization efforts should be encouraged to build support networks for victims and increase community awareness about domestic violence. This can be done through community meetings, rallies, and public events.

In India, there are several committees and bodies that are responsible for addressing issues related to domestic violence. Here are some of the major committees and bodies that work towards preventing and addressing

domestic violence:

- *National Commission for Women (NCW)*: The National Commission for Women is a legislative organization that was recognised in 1992 to safeguard and encourage the rights of women in India. The commission is responsible for inspecting & monitoring problems linked to domestic viciousness, & it delivers legal and other assistance to women who are victims of domestic violence.
- *State Women's Commissions (SWCs)*: The SWCs are similar to the NCW but are at the state level. Each state in India has a State Women's Commission that is responsible for addressing issues related to domestic violence within the state.
- *One Stop Centres (OSC)*: The OSCs are set up by the government to deliver medicinal, legal, & counselling services to women who are sufferers of domestic viciousness. These centres are located in every district in India.
- *Crisis Intervention Centres (CICs)*: CICs are set up by NGOs and other organizations to provide immediate assistance to women who are sufferers of domestic violence. These centres provide emergency shelter, medical aid, and legal assistance to women in distress.

CONCLUSION

Domestic violence is a serious issue in India that affects a significant number of women. The Indian government has taken several steps to address the problem, including enacting laws such as the Protection of Women from Domestic Violence Act, 2005. However, despite these efforts,

domestic violence continues to be a major problem in India. Cultural and societal norms that reinforce gender-based discrimination, as well as a lack of awareness and education about domestic violence, continue to contribute to the prevalence of this issue. Additionally, implementation and enforcement of laws and policies aimed at preventing domestic violence remain a challenge in some parts of the country. To truly address domestic violence in India, a multi-faceted approach is required. This includes creating greater awareness about the issue, providing comprehensive support services for victims, ensuring that laws and policies are effectively implemented, and challenging societal norms that perpetuate gender-based discrimination. Ultimately, only through sustained effort can we hope to create a society where domestic violence is no longer tolerated and women can live their lives free from fear and violence.

