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Critical Analysis of Domestic Violence: A Gender Neutral Study

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ABSTRACT

We have been brought up in a culture where society dictates that men are supposed to be strong, courageous and dominant, while women are expected to be fragile and submissive. Women endure a great deal of ordeals like rapes, domestic violence, harassment, etc. but it would be discriminatory to men if we don't acknowledge that they go through these atrocities as well. Domestic violence against males is no longer an aberration, but a real problem. The term 'masculinity' weighs on men throughout their lives.

Even people belonging to the lesbian, gay, bisexual, transgender and queer (LGBTQ) community can be the victims of such violence. They are in fact more likely to be the victims of such crimes.

This paper provides a novel and comprehensive analysis to the conventional laws pertaining to domestic violence in India by taking a gender neutral approach.

Keywords- *domestic violence, men victims, LGBTQ victims, India, gender-neutral laws*

I. INTRODUCTION

Domestic violence has been defined under Section 3 of The Protection of Women from Domestic Violence Act, 2005(hereinafter as the Act) as “any act, omission or commission or conduct of the Respondent shall constitute domestic violence in case it--

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

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conduct mentioned in Clause (a) or Clause (b); or

d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”²

However, the definition of aggrieved person as per Section 2(a) of the Act only views women in heterosexual relationships or women living in joint families as victims.³ It is not accommodative of men and trans-genders as the victims of domestic violence. Domestic violence is generally viewed in relation to heteronormative couples, which identify women as the victims and men as the perpetrators. However, this provides a false picture, as any individual irrespective of their gender can be a victim of domestic violence. It is a false notion that men or people belonging to the LGBTQ community don't go through domestic violence or rapes, it's just that societal norms bind them from admitting these issues in the society.

The paper attempts to firstly explain the different types of domestic violence and the kind of protection to victims granted under various statutes. The paper then goes forward to understand the Indian legal framework and statistics on domestic violence in detail along with a comparative analysis with the legal framework and statistics of other countries. It further explains the reasons for such bias towards men, trans-genders and people in same-sex relationships under the psycho-sociological approach. Lastly, it analyzes the consequences of domestic violence on males as well as people belonging to the lesbian, gay, bisexual, transgender and queer (hereinafter as LGBTQ) community. In conclusion, it provides recommendations on how to handle such violence in India.

II. TYPES OF DOMESTIC VIOLENCE

There can be different types of domestic violence. They can be on the basis of demographics of the victim and the perpetrator. Such types of abuse have been enumerated below:

1. **Child Abuse-** The victims of this type of domestic violence are below the age of 18 years. The perpetrators of this violence can be from immediate family like mother, father, siblings, relatives and also partners in case of child marriages. Children have been protected from abuse to a certain extent under the Juvenile Justice (Care and Protection of Children) Act, 2015. This is a gender neutral law which protects any child who has not attained the age of 18 years.

2. **Intimate Partner Abuse-** As per the Centre for Disease Control, “Intimate partner violence includes physical violence, sexual violence, stalking and psychological aggression-

² The Protection of Women from Domestic Violence Act, Act no. 43 of 2005, § 3.

³ The Protection of Women from Domestic Violence Act, Act no. 43 of 2005, § 2(a).

(including coercive tactics) by a current or former intimate partner (i.e., spouse, boyfriend/girlfriend, dating partner, or ongoing sexual partner).”⁴

However, Indian law also recognizes that it can be by a partner’s relatives in marriage or in live-in relationships. The umbrella term of domestic violence generally connotes this type of abuse.

3. **Elderly Abuse-** The victims of such type of abuse are generally people above the age of 60 years. This type of abuse may include physical and emotional abuse, as well as abuse in other forms, like taking away financial support. Such abuse is also not covered under any Indian law. However, elderly people are entitled to maintenance under Section 125 of Criminal Procedure Code, which is a gender neutral provision.⁵

The other method to distinguish between different types of domestic violence is on the basis of how such violence is being accomplished. It can be of the following types-

1. **Physical abuse-** As per Section 3 Explanation 1(i) of the Act, physical abuse has been defined as “any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force.”⁶

2. **Sexual abuse-** It includes sexual assault, sexual harassment and sexual exploitation. However, Section 3 Explanation 1(ii) of the Act only explains sexual violence in terms of a woman, i.e. “any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman.”⁷

3. **Verbal and emotional abuse-** This type of abuse can be verbal as well as non-verbal. Emotional/psychological abuse includes threats, harassment, stalking, seclusion, verbal mistreatment such as name-calling, degradation and accusations.⁸

4. **Financial or economic abuse-** It includes taking away spouse’s financial support who is dependent on the perpetrator for sustenance. It may also include taking away of resources, property, etc. or a threat to the same. As stay-at-home husbands become normal in India, the

⁴ MATTHEW J. BREIDING ET AL., INTIMATE PARTNER VIOLENCE SURVEILLANCE: UNIFORM DEFINITIONS AND RECOMMENDED DATA ELEMENTS 11, (Centers for Disease Control and Prevention National Center for Injury Prevention and Control Atlanta, Georgia, Version 2.0, 2015), <https://www.cdc.gov/violenceprevention/pdf/ipv/intimatepartnerviolence.pdf>.

⁵ Code of Criminal Procedure, Act no. 2 of 1974, Cr.P.C, § 125.

⁶ The Protection of Women from Domestic Violence Act, Act no. 43 of 2005, § 3.

⁷ *Id.*

⁸ Committee on Health Care for Underserved Women, *Intimate Partner Violence*, AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS (Feb., 2012), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2012/02/intimate-partner-violence>.

likelihood of this kind of abuse against men is increasing. It can also be in the form of unnecessary pressure on the man regarding his earnings.

III. INDIAN LEGAL FRAMEWORK

The first and foremost problem is that even the Indian law doesn't recognize domestic violence against men or LGBTQ community. The law protects only women under the Act. The Act criminalizes physical, mental, economic, sexual and verbal abuse against women in India. However, it affords no protection to males, trans-genders or victims in same-sex relationships. Since the Act is a more expansive in scope than the Indian Penal Code, it affords better protection to victims of domestic violence and therefore, there is a need for an all-inclusive legal framework.

As per Section 2(f) of the Act, a woman can file a domestic violence case not just against her husband, but also any family member with whom she is sharing a household.⁹ This includes her own parents, siblings, and her husband's relatives who share the same domestic household. Even if the argument that wives don't subject their husbands to domestic violence is accepted, men are still subjects to violence from other family members, especially fathers and elder brothers.

Additionally, Section 498A of the Indian Penal Code which relates to the law of Cruelty states that "Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment".¹⁰ This clearly states that only women are protected under law against domestic violence. So, even if a man attempts to overcome societal stigma and approach the law, his scope for remedies under legal sources is very limited. His masculinity is questioned even by the police who mock him for not being "man enough." Even the people belonging to the LGBTQ community cannot approach the court if they are the victims of domestic abuse.

Furthermore, the Indian laws do not acknowledge that men or trans-genders can be raped as well. There is no provision in the Indian Penal Code to protect them from rape by men or women. A survey among 222 men was conducted in which 16.1% of the respondents reported that they had been coerced or forced into sex as an adult by a woman¹¹.

As per Article 21 of the Indian Constitution, everyone has the Right to life and personal liberty.

⁹ The Protection of Women from Domestic Violence Act, Act no. 43 of 2005, § 2(f).

¹⁰ Indian Penal Code, Act no. 45 of 1860, § 498A.

¹¹ Jai Vipra, *A Case for Gender-Neutral Rape Laws in India*, 3 RESEARCHING REALITY INTERNSHIP (2013), https://ccsinternship.files.wordpress.com/2013/05/286_case-for-gender-neutral-rape-laws-in-india_jai-vipra.pdf.

This includes the right to be free from violence¹² and right to dignity.¹³ Since these rights are available to everyone, even men and people belonging to the LGBTQ community should be protected from brutalities like domestic violence and rape.

In an attempt to strive towards gender equality, the Hon'ble Supreme Court of India has passed a ruling wherein the words "adult male" have been removed from the Section 2(q) of the Domestic Violence Act, 2005.¹⁴ This broadens the Act in the view that a complainant can also be filed against a female counterpart, i.e. a woman can file a complaint against both male and female family members. But since Section 2(q) of the Protection of Women from Domestic Violence Act, 2005 deals with the respondent, even this ruling does not say anything about men being the victims of such violence.¹⁵

In the current scenario regarding subjects like domestic violence against men, rape of men and adultery committed by women, even the Supreme Court is reconsidering the provisions of these laws as archaic and biased. These laws are biased and only perceive women as victims. There is a need to rectify these laws to accommodate both men and women. In a judgement by Justice D Y Chandrachud, the Hon'ble Supreme Court held that the laws regarding adultery are prejudiced towards males and hence there is a need to rectify these laws.¹⁶ Similarly, the laws of domestic violence are also prejudiced as they only recognize women as victims. There is still a lot to be done to make the Indian laws gender neutral. In fact, there are a few countries which have already accommodated provisions for domestic violence for both the genders in their constitution.

IV. COMPARATIVE INTERNATIONAL FRAMEWORK AND STATISTICS

Countries like the United States of America and England have laws protecting both men and women against domestic violence. Even the country from which India's constitution was primarily derived from has included provisions for protection of both the genders, it's necessary for India to include such provisions as well. Some countries have also made their domestic violence laws completely gender neutral, thereby affording protection to every individual irrespective of their gender, i.e. not just males or females, but anyone including trans-genders or people living in same-sex relationships.

However, there are still countries like Kenya, Egypt, Pakistan, Algeria, etc. that don't even

¹² Francis Coralie Mullin v. Union Territory Delhi, Administrator, (1981) 1 SCC 608

¹³ Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan, (1997) 11 SCC 121.

¹⁴ Hiral P. Harsora v. Kusum Narottamdas Harsora, (2016) 10 SCC 165.

¹⁵ The Protection of Women from Domestic Violence Act, Act no. 43 of 2005, § 2(q).

¹⁶ Joseph Shine v. Union of India, (2019) 3 SCC 39.

have laws for domestic violence (both male and female).

The statistics provided by official sources in other countries indicates the acute prevalence of domestic violence against men and people who identify as LGBTQ. The legal framework and statistics of reported domestic violence or intimate partner violence in other countries are as follows-

(a) **United Kingdom and Wales-** UK Home Office describes domestic violence as “Any incident, or pattern of incidents, of controlling, coercive, threatening behavior, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality.”¹⁷ This definition is gender-neutral and inclusive of all people above the age of 16 years, and also identifies perpetrators as either family members or intimate partners. As per a study, approximately 2.4 million adults aged 16 to 74 years experienced domestic violence in the year 2018-2019.¹⁸ Out of these, 1.6 million victims were women and 786,000 were men.¹⁹ Thereby, indicating that 32.75% of the victims of domestic violence were men.

(b) **United States of America-** The Violence Against Women Act is a federal legislation that provides protection from domestic violence to women, men and people belonging to the LGBTQ community. Around 1 of every 4 females and 3 out of 10 males have encountered contact sexual abuse, physical abuse, or stalking by an intimate partner in the course of their lifespan and reported at least one consequence of such abuse (like being worried for their security).²⁰ Approximately 48.4% females and around 48.8% males experienced mental abuse by an intimate partner in the course of their life.²¹

(c) **Canada-** The Canadian statutes provides protection from domestic violence irrespective of the individual’s gender. In the year 2018, 20,600 men and 78,852 women were the victims of intimate partner violence.²² This implies that 20.71% victims of the reported

¹⁷ Home Office, *Information for Local Areas on the change to the Definition of Domestic Violence and Abuse*, GOVT.UK (Mar. 18, 2013), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/142701/guide-on-definition-of-dv.pdf.

¹⁸ Meghan Elkin, *Domestic abuse in England and Wales overview: November 2019*, OFFICE FOR NATIONAL STATISTICS (Nov. 25, 2019), <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwalesoverview/november2019>.

¹⁹ *Id.*

²⁰ M.J. Breiding et al., *Intimate Partner Violence in the United States – 2010*, NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL CENTERS FOR DISEASE CONTROL AND PREVENTION ATLANTA, GEORGIA (2014), https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf.

²¹ *Id.*

²² Shana Conroy et al., *Family Violence in Canada: A Statistical Profile, 2018*, 39 JURISTAT, 29 (Dec. 12, 2019), <https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00018-eng.pdf>.

intimate partner violence cases were men. However, 46.9% of males were the victims of the total reported intimate and non-intimate partner violence.²³ As per the Canadian Labour Congress survey, trans-genders are more likely to be the victims of domestic or intimate partner violence as compared to their cisgender counterparts.²⁴

(d) **Australia**- The law pertaining to domestic violence in Australia is accommodative of all persons irrespective of their gender. The government has provided dedicated helplines for women and LGBTQ people. The police officers are especially trained to deal with LGBTQ victims. A study in 2018 indicates that, 1 in 6 women and 1 in 16 men in Australia, above the age of 15 years, are subject to intimate partner violence.²⁵ A survey conducted by The Australian Research Centre for Health and Sexuality (ARCHS) on 5476 LGBTQ people found substantial levels of intimate partner violence.²⁶

(e) **Germany**- The laws in Germany on domestic violence only require the perpetrator and victim to have a shared household. It is applicable on everyone irrespective of gender, sexual orientation or age of the person. As per a 2018 report by Germany's Federal Criminal Police Office (BKA), men victims were approximately 17.9% of the total victims of reported intimate partner violence.²⁷

V. INCIDENCES OF DOMESTIC VIOLENCE IN INDIA

A study conducted by the Save India Society and MyNation on 1650 husbands across the country shows that a large number of these men reported domestic abuse.²⁸ Another survey conducted on a 1000 men in District Rohtak showed that 51.4% of these men have experienced gender violence in their lifetime.²⁹ Emotional abuse accounted for 51.6% and physical abuse accounted for 6%.³⁰ However, there are no surveys or studies available on official government websites in India, which specify the actual numbers of men in India who are the victims of domestic violence. Since there is minimal data available on official sources and domestic

²³ *Id.*

²⁴ Canadian Labour Congress, *Can Work Be Safe When Home Isn't? Initial Findings of a Pan-Canadian Survey on Domestic Violence and the Workplace*, UNIVERSITY OF WESTERN ONTARIO 12, (2014).

²⁵ AIHW, *Family, Domestic and Sexual Violence in Australia, 2018*, AUSTRALIAN INSTITUTE OF HEALTH AND WELFARE (Feb. 28, 2018), <https://www.aihw.gov.au/reports/domestic-violence/family-domestic-sexual-violence-in-australia-2018/contents/summary>.

²⁶ Marian Pitts et al., *Private lives: A report on the health and wellbeing of GLBTI Australians*, AUSTRALIAN RESEARCH CENTRE IN SEX, HEALTH & SOCIETY (2006).

²⁷ Darko Janjevic, *Domestic Violence Against Men – German States Move to Break Taboos*, DW (June 18, 2019), <https://p.dw.com/p/3Keku>.

²⁸ Swaroop Sarkar et. al., *Domestic Violence Against Men*, SAVE FAMILY FOUNDATION (2005), <https://ipc498a.files.wordpress.com/2007/10/domestic-violence-against-men.pdf>.

²⁹ Jagbir Singh Malik & Anuradha Nadda, *A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India*, INDIAN JOURNAL OF COMMUNITY MEDICINE 35, 35-38 (2019).

³⁰ *Id.*

violence against men is really underreported in India, this poses a problem in bringing changes to the current legal framework. The reason that government does not collect data about domestic violence against men is because of the common notion that men are not the victims of domestic violence. The Indian law may not consider men as victims of domestic violence, but the study shows the reality of the matter at hand.

Statistics by a family counselling center service provider showed that approximately 70% husbands were harassed in 2013-2014.³¹ These men had bruises and bandages over their bodies.³² 224 complaints were recorded by the center under the Act in January, out of which 160 complaints were by men.³³ These men eventually left their homes as they were unable to cope with the situation.³⁴ This data clearly indicates that men can also be victims of domestic violence.

As per the National Family Housing Survey (2005-2006), approximately 1% women initiated violence against their husbands.³⁵ However, the results of this survey does not pose a true picture because the survey determines the result by only having female candidates. The numbers would be much higher if the husbands would be asked if they were the victims of intimate partner violence, as has been shown by the Save India Society survey.

A study conducted on 50 Indian lesbian women indicated that 78% of the women were subject to physical violence or had faced emotional abuse during their lifetime.³⁶ Of this number, 77% had experienced violence in family.³⁷ Those who had not experienced violence had disclosed their identity to a smaller number of individuals (3, on average).³⁸ Since same-sex relationships were recently decriminalized in India,³⁹ the literature on this topic is limited.

VI. PSYCHO-SOCIAL APPROACH ON DOMESTIC VIOLENCE AGAINST MEN

There is a social constraint on men that they have to be 'masculine'. This connotation brings certain qualities that are attributed to a man, for example, being strong, both physically and

³¹ Manjari Mishra, *Number of battered husbands in Jabalpur on the rise*, THE TIMES OF INDIA (Feb. 15, 2014), http://timesofindia.indiatimes.com/articleshow/30421072.cms?&utm_source=contentofinterest&utm_medium=ext&utm_campaign=cppst.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ P.N. Mari Bhat et. al., National Family Health Survey (NFHS-3), 1 INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES(IIPS) AND MACRO INTERNATIONAL 493, 521 (2007), <https://dhsprogram.com/pubs/pdf/FRIND3/FRIND3-Vol1AndVol2.pdf>.

³⁶ Bina Fernandez & Gomathy N.B., *The Nature of Violence Faced by Lesbian Women in India*, TATA INSTITUTE OF SOCIAL SCIENCES (2003), https://www.tiss.edu/uploads/files/8The_Nature_of_violence_faced_by_Lesbian_women_in_India.pdf.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Navtej Singh Johar and Ors. vs. Union of India and Ors., (2018) 10 SCC 1.

mentally. So if they talk about being the victims of domestic violence, the society might look down upon them and they might have to go through even more humiliation. As a result, they stay quiet on the subject and get marginalized in the society.

Furthermore, pride is also a reason that men don't report abuses of domestic violence. They are taught since birth that "men don't cry". This pre-conditioning makes them believe that they would be ridiculed and humiliated in the society if they discuss their problems. The problem not only lies with the people who are engaging in these activities, but also the people around them, who are not sensitive enough to comprehend that men are also human and they can also go through emotional problems.

Another reason they stay unobtrusive regarding this topic is that sometimes they are threatened that they will be falsely accused of a dowry harassment case or a cruelty case if they do not comply with the terms of the woman. Even if they file for a divorce, they are further harassed and accused of false claims. In fact, in 2013, ten percent of the cases filed under 498A of the Indian Penal Code⁴⁰, i.e. the dowry harassment law, turned out to be false.⁴¹ The man cannot even safeguard himself as minimal legal remedies are available to him. He suffers in silence as his masculinity is questioned if he tries to speak up. In *Arnesh Kumar vs. State of Bihar*, the Hon'ble Supreme Court also admitted that the provisions under Section 498A of the Indian Penal Code are being utilized to harass the husbands and his relatives by disgruntled wives.⁴²

The plain reason as to why till now there are many countries that don't have laws protecting men from domestic violence is because this is the common notion that men are physically much stronger than women and hence, only they can inflict violence. On an average, men might be stronger than women physically, but on an individual basis, this generalization is not always true. Furthermore, as mentioned before, domestic abuse is not only physical, but verbal, emotional, economic and sexual as well. So, physical strength is not the only factor that determines the victims of domestic violence. In fact, the unavailability of domestic violence laws for men puts them at a high risk of being the victims of such crimes as there is no legal deterrent preventing such crimes.

Moreover, it is difficult for men to themselves accept that they are going through a problem. Years of conditioning in the patriarchal society has made them to believe that women cannot subject them to abuse, that they cannot be harassed by the 'allegedly' weaker gender. If he

⁴⁰ Indian Penal Code, Act no. 45 of 1860, § 498A.

⁴¹ Deeptiman Tiwary, *10% of Dowry Cases False, Government Plans Changes in Law*, THE TIMES OF INDIA (Mar. 22, 2015), <https://timesofindia.indiatimes.com/india/10-of-dowry-cases-false-government-plans-changes-in-law/articleshow/46649047.cms>.

⁴² *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

accepts the ordeal, it would imply that he does not fit in the conventional 'masculinity' standards and therefore, there is something wrong with him. They stay in denial thinking that the behavior of their partner may change towards them with the passage of time.

Even though 'women are physically weaker than men' argument implies that a woman cannot physically assault a man, it is not necessary that a man may be assaulted by his wife only. The women may assault the man through her brothers, father or other relatives as well. Therefore, a safeguard needs to be provided to a man from the relatives of his partners as well. If physical brutality and threats against men by his spouse's family members are considered, an expected 3 crore men are confronting domestic violence at home in India.⁴³ A man filed a case of domestic violence against his wife and her brothers, who allegedly robbed and attacked him, but the same was quashed by the Supreme Court as not maintainable under the Act.⁴⁴

Domestic violence is not only perpetrated by the wife's immediate relatives, but a person can also be the subject of violence from their own parents, siblings or other members living in a shared household. In India, there is a pressure on the male sons in the family to support their parents and live in a shared household. This is in contrast to the Western practice where children generally move out of their parent's home after attaining the age of 18 years. Given the structure of Indian joint families, the eldest male member or the 'karta' has an unequivocal dominating position. There is a need to protect the other individuals of the family, regardless of their gender, from the tyranny of the 'karta' of the family. Since the sons do not separate from their parents even after attaining majority, some of them have to endure the dominating character of the 'karta'. This sometimes includes physical as well as mental harassment on the individual.

The society is largely focusing on feminism, although feminism is now sometimes seen in a negative connotation. Though, feminism is actually about attaining equality of rights, some people try to suppress the rights of men in their quest to gain rights for women. This leads to a negative impact on a man's life. The huge surge of movement against the patriarchal structure of the society has to some extent ignored the related problems that men go through. Due to this mindset, men don't have a safe space to talk about these problems that they go through. In an attempt to throw off patriarchal society, a lot of persons have molded their mindsets that any crime that happens is a man's fault without even considering that he might be innocent. This

⁴³ Virag R. Dhulia, *Domestic violence against men: High time government addressed the problem*, NEWS18 (June 11, 2015), <https://www.news18.com/news/india/domestic-violence-against-men-high-time-government-addressed-the-problem-1004785.html>.

⁴⁴ Ashish Tripathi, *HC orders on domestic violence set aside*, DECCAN HERALD (July 24, 2018), <https://www.deccanherald.com/city/sc-sets-aside-hc-s-orders-683164.html>.

leads to emotional abuse as he is being blamed for something that might not even be his fault. As per Kumar, such incidents of domestic violence will increase in the near future due to the changes in the power dynamics in the various gender roles.⁴⁵ With more women entering the work-force, men are also becoming dependent on women for financial support. In fact, the trend of stay-at-home husbands is also increasing in India, thereby increasing the economic dependence of men on their partners. Therefore, it becomes difficult for such men to leave abusive relationships. A portion of the reasons why men endure abusive behavior at home are the conviction and expectation that things would show signs of improvement, dread of losing social standing and position, and love toward their kids and family.⁴⁶

However, some uninformed people assert that by trying to highlight gender violence against men, it suppresses the significance of gender violence against women. That, it is just a political agenda to curtail gender violence against women. Such claims are stereotyping the notion that only women can be the victims of domestic violence. The data from Home Office statistical bulletins and the British Crime Survey showed “that men made up about 40% of domestic violence victims each year between 2004-05 and 2008-09, the last year for which figures are available. In 2006-07 men made up 43.4% of all those who had suffered partner abuse in the previous year, which rose to 45.5% in 2007-08 but fell to 37.7% in 2008-09.”⁴⁷ The data clearly shows that gender violence against men is also a serious and prevailing issue. By asserting that gender violence exists against men, it is not asserting that it does not exist against women.

VII. PSYCHO-SOCIAL APPROACH ON DOMESTIC VIOLENCE AGAINST LGBTQ COMMUNITY

People belonging to the LGBTQ community have existed throughout history. However, they have only recently been recognized as individuals requiring equal rights under the Indian laws after the decriminalization of homosexuality in 2018.⁴⁸ Even though the law now recognizes them as equal members, the society is still prejudicial towards them. Homophobia and transphobia are highly prevalent in India. The Indian society identifies homosexuals, trans-genders and queers as against the ‘culture’ of the country.

Not only men and women, but people belonging to the LGBTQ group can also be the victims

⁴⁵ Anant Kumar, *Domestic Violence against Men in India: A Perspective*, 22 JOURNAL OF HUMAN BEHAVIOR IN THE SOCIAL ENVIRONMENT 290, 290 (2012).

⁴⁶ *Id.* at 292.

⁴⁷ Dennis Campbell, *More than 40% of Domestic Violence Victims are Male, Report Reveals*, THE GUARDIAN (Sept. 4, 2010), <https://www.theguardian.com/society/2010/sep/05/men-victims-domestic-violence>.

⁴⁸ Navtej Singh Johar and Ors. vs. Union of India and Ors., (2018) 10 SCC 1.

of domestic violence.⁴⁹ However, the current law in India provides protection to only females as victims of domestic violence. Especially after the decriminalization of same-sex relationships in India after the partial struck down of Section 377 of the Indian Penal Code,⁵⁰ there is a need to protect such persons in a domestic relationship. Due to the negative stigmatization of the society towards the LGBTQ community, these persons are more vulnerable and therefore, more likely to be the victims of domestic violence. In the United States of America, 43.8% of homosexual women and 61.1% of bisexual women have encountered assault, physical maltreatment, and stalking by an intimate partner, contrasted with 35% heterosexual women.⁵¹ This deciphers to 714,000 homosexual women, 2.0 million bisexual women, and 38.3 million heterosexual women.⁵² Men are not invulnerable to domestic violence, more than 26% of homosexual men and over 37.3% of bisexual men have encountered assault, physical maltreatment, or stalking by a close accomplice, contrasted with 29% of heterosexual men.⁵³ This deciphers to 708,000 homosexual men, 711,000 bisexual men, and 30.3 million heterosexual men.⁵⁴

The violence that LGBTQ community suffers in India is overwhelming. It is different from the type of domestic violence suffered by their male and female counterparts who identify as heterosexuals. Violence against LGBTQ community includes forced matrimony and punishment by family members for practicing sexual choice.⁵⁵ Kinds of punishment consists of detention at home, family expulsion, denial of monetary and necessary resources, forced mental treatment, and forced termination of education.⁵⁶

Some families also subject people belonging to the LGBTQ community to various religious customs and practices in order to ‘cure’ their homosexuality. Such therapies are quite common in India, and can be quite tormenting for the people who undergo through them. A person who identified as queer was subject to one such therapy which included “hallucinogenic drugs, hormone injections, and continuous exposure to porn.”⁵⁷

⁴⁹ Dania Bardavid, Marissa Chiarolanzio & Allison Strittmater, *Domestic Violence*, 17 GEO. J. GENDER & L. 211 (2016).

⁵⁰ Navtej Singh Johar and Ors. vs. Union of India and Ors., (2018) 10 SCC 1.

⁵¹ M.J. Breiding et al., *Intimate Partner Violence in the United States – 2010*, NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL CENTERS FOR DISEASE CONTROL AND PREVENTION ATLANTA, GEORGIA (2014), https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Violence on the Basis of Sexual Orientation, Gender Identity and Gender Expression Against Non-Heteronormative Women in Asia*, OUTRIGHT ACTION INTERNATIONAL (Feb. 26, 2010), <https://outrightinternational.org/content/violence-against-lbt-people-asia>.

⁵⁶ *Id.*

⁵⁷ Navamy Sudhish, *Torture, hypnotism as 'corrective therapy' for LGBT persons in some Kerala hospitals*, THE

It is further more difficult for LGBTQ persons to report such violence as they do not wish to disclose their identities to other people, due to the stigma attached to being a part of the LGBTQ community.

VIII. CONSEQUENCES OF DOMESTIC VIOLENCE

As the society is changing, the fight for discrimination against women has gained a lot of importance. But in the process, men who go through similar problems have been overlooked. Deep wounds, fatal injuries, physical disability amongst other things can be a result of such abuse. It not only affects the individual physically but also mentally. It might even lead to various mental-health disorders like depression, stress, anxiety disorders, etc. Sometimes, it also leads to suicide. It makes the man feel weak and the stigma restricts him from asking for any professional help, or any kind of help for that matter. In fact, a man who approached the police alleging that his wife assaulted him, he was ridiculed by the police and was threatened that they will call his wife to ask her to file a case against him.⁵⁸ The man died as a result of suicide thereafter.⁵⁹ In 2005, 52483 married men committed suicide as compared to 28188 married women.⁶⁰

The psychological barrier that has been created hinders both his professional and personal growth. Men generally find themselves estranged from their families as well. Furthermore, a lot of women withhold intercourse to get what they want. This leads to sexual frustration which might lead him into committing heinous acts like rape, harassment, etc. Not just sexual frustration, but frustration in general which adversely affects his life to a great extent. Post marital rape by wives is also one of the forms of domestic violence that a man has to go through.⁶¹

Moreover, men are called imbeciles, impotent, cowards, weak and other derogatory terms which have an extremely negative effect on the psycho-social wellbeing of these men. Such terms can even have an adverse effect on his sexual wellbeing including problems like erectile dysfunction and low sexual libido. It also affects his behavior and mental health in a deleterious

HINDU (June 27, 2019), <https://www.thehindu.com/news/national/kerala/inhuman-straightening-tees-abound-in-a-state-with-transgender-policy/article28159861.ece>.

⁵⁸ Dhvani Desai, *When Husbands are Victims of Domestic Violence*, THE TIMES OF INDIA (May 10, 2017), <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/when-husbands-are-victims-of-domestic-violence/articleshow/26031858.cms>.

⁵⁹ *Id.*

⁶⁰ Swaroop Sarkar et. al., *Domestic Violence Against Men*, SAVE FAMILY FOUNDATION (2005), <https://ipc498a.files.wordpress.com/2007/10/domestic-violence-against-men.pdf>.

⁶¹ Dr. Jyoti Diwakar, *Domestic Violence against Men: A Legal Aspect*, LEGAL EXPRESS- AN INTERNATIONAL JOURNAL OF LAW (May 2016), <http://legalexpress.co.in/downloads/jyoti-diwakar--domestic-violence-against-men1.pdf>.

manner. It distorts a person's sense of self-worth and his confidence.

All the above consequences are equally applicable to the people belonging to the LGBTQ community. The LGBTQ community in general faces the brunt of discrimination, police brutality and societal isolation. Domestic violence just adds to that list. It makes such persons feel unsafe in their own homes. The practices that claim to 'cure' homosexuality' have a delirious effect on the mental health and the physical health of these individuals. Such practices tend to dehumanize these people. A bisexual woman in Kerala allegedly committed suicide as she was subject to conversion therapies by her parents.⁶² She was also subjected to violence by her family when she denied going to such 'de-addiction' centers.⁶³

IX. SUGGESTIONS

The following measures can be adopted to deal with domestic violence cases in a gender-neutral manner in India-

1. A new legislation should be passed by the legislature which recognizes men, women as well as members of the LGBTQ community as the victims of domestic violence.
2. Similar protections should be provided to men, women and trans-genders who are the victims of such crimes.
3. Awareness campaigns should be held which de-stigmatise the notion of domestic violence against men and the LGBTQ community.
4. Mandatory sensitization trainings should be held for police officers and health officials in relation to dealing with male or transgender victims of domestic violence.
5. There should be dedicated helplines, especially for people from the LGBTQ community which tackles the problem in a swift and discretionary manner.
6. Shelter homes for domestic abuse survivors should be created, which provide help to people suffering with domestic abuse regardless of their gender.
7. Proper surveys should be conducted in India to determine the extent of the victims of domestic violence. The study should take into account men, women and people belonging to LGBTQ community as victims and also the kind of perpetrators of such violence.

⁶² FP Staff, *21-year-old student, who was reportedly sent to 'conversion therapy' after coming out to family, found dead in Goa*, FIRST POST (May 24, 2020), <https://www.firstpost.com/india/21-year-old-student-who-was-reportedly-sent-to-conversion-therapy-after-coming-out-to-family-found-dead-in-go-8375951.html>.

⁶³ *Id.*

X. CONCLUSION

As a society striving towards equality we need all sides to be equal. By talking about equality, we can't only fight for women's rights, we have to fight for rights of men and LGBTQ as well. We can fight for domestic violence against men by forming committees, by making legal provision for their protection in the Indian statutes. There is a major transformation that we need to go through with respect to our mindsets regarding our notions about 'masculinity'. There is a need for systemic change in the society which helps us perceive people beyond their gender roles in the society. On the personal level, we need to spread awareness regarding this issue. The law does not give protection to men and LBTQ community against several issues and therefore we need to sensitize people towards issues that affect them. It is not as if domestic violence against women does not exist but rather, we need to realize that it exists against all individuals. We need to provide a safe space for everyone to address these issues. There is a necessity to stop stereotyping as to what is the correct and proper way for people to act in a society.

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