

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 4 | Issue 2

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Domestic Violence against Men

ANKITA SAHOO¹

ABSTRACT

It is the harsh truth that in today's world men are also victimised under domestic violence. When people come up with the topic domestic violence the often thing the woman is the victim, and the man is the one who has committed violence against her. This is often true, but it cannot dim the fact that male is also victimised under domestic violence by females as well as males of the family. Domestic violence against male is more prevalent than we may think. And ignoring these social treats against males can lead to significant harm to these victims. From the name of the act i.e., Domestic Violence against Women Act, suggest that the act is to empower women and safeguard the rights of women against domestic violence. The said Act clearly states it focuses on female against domestic violence excluding males from the same. Having sympathy towards women and assumption of innocence in case of women in similar cases would lead to disproportionate punishment and liabilities for both men and women. The fact that females are mostly the sufferer under cruelty and domestic violence has led the country in making of gender biased laws. Nowadays females are misusing these laws against male by making false accusation and threatening to sue them under section 498-A of Indian penal code. With changing gender roles this has to be stopped and strict laws must be enforced to reduce such social threats in the country and eradicating gender biased laws eventually.

Keywords: Domestic Violence – Male Victim – Social Threat – Empowerment – Gender Biased Laws.

I. INTRODUCTION

(A) Domestic Violence against Men

Domestic violence generally means abuse or misuse of power against a person. Domestic violence mostly happens in homes between spouse and also in some cases against children. The basic difference between assault and domestic violence is that the assault which takes place among family members is called domestic violence. Domestic violence has been recognised as a criminal offence under section 498A of Indian Penal Code². Often it is assumed that female are the victims of domestic violence, but it is not always true. Many cases of domestic violence

¹ Author is a student at KIIT School of Law, Bhubaneswar, Odisha, India.

² Hamel, J. Facts and statistics on domestic violence at a glance. DV research.

are coming up where males are the victims and females are the aggressor. Violence can be of different types. Violence can be physical, psychological, can be threats, etc. Mostly the cases of domestic violence in which males are victims are underreported. As the gender roles are changing, more no of such cases are coming up. Men feel ashamed to even talk about the harassment they go through. The major reason behind this is that people consider the masculinity of man cannot be harmed by a woman and they mock at men who are the suffering from violence by women rather offering them their helping hands.

Both men and women can be victims of domestic violence. Anybody can be the abuser and anybody can be affected through domestic violence, say it be men or women. Men also suffer violence from their intimate relation such as cohabitation, marriage or within the family. Male victims like female victims also face many barriers to disclose abuse from their partner or any family member. Children can also be victim of domestic violence and it becomes difficult for them to disclose the abuse in front of anybody. Men under domestic violence suffer through embarrassment, threats, social stigma, physical hurt, fear of losing their child, fear of falsely filing of case against them by their partner, etc.

II. LITERATURE REPORT ON DOMESTIC VIOLENCE

(A) The Domestic Violence act³

This act was brought to protect women against domestic violence. The Act came into force from 26th of October 2006. The act defined domestic violence and it stated that not only domestic violence includes physical violence but also it includes emotional violence, verbal violence, sexual violence and also abusing economically. As the name of the act suggest it has particularly mention that the act is to safeguard the rights of women. It is a gender biased law which is silent about the male victims under domestic violence. The act tempts women to falsely accuse their rival as the act make it very easy for women to file falsely cases against their male relatives and other family members. This will create panic among males and may lead to lawlessness. Although the purpose behind making this act was righteous but many women are misusing the laws under this act which will induce fear among innocent people. Therefore, the gender biasness must be removed, and unprejudiced law must come to protect the actual and veritable victims of domestic violence regardless the gender of the victim.

(B) Gender and sexuality⁴

The book gender and sexuality has described about legally sanctioned same sex marriages and

³ The Protection of Women from Domestic Violence Act, 2005.

⁴ Sutton. W. (2013)

civil partnerships⁵. It has mentioned that in many industrialised countries, steps have been taken to decriminalise same sex marriages and unions. The study shows that attitude towards sexuality has liberalised in this industrial era though there are considerable numbers of people who have old school and traditional thoughts. It shows there has been significant amends in gender roles. This book describes sexuality as a social phenomenon. This make it transparent that the connection between sexual identity, sexual desires and sexual activity are far from simple. They differ from people to people. Historical and cultural comparisons show that there are vast variety of sexual expression and interpretation of sexual activity among people. So, we must liberalise the attitude towards sexuality rather than following old traditional beliefs.

(C) Male Victims of Domestic Violence⁶

It suggests that domestic violence has become an emerging problem of the world. We have to come up with solutions to change the present conditions of domestic violence. Many steps in terms of research, advocacy, laws, police procedure, medical efforts have been taken to spur up prosecution. The author indicates that in recent years debate has come up among activist, organisations, and individuals about the nature of domestic violence. Many research reports indicates that both men and women are victims under this in equivalent. So, activists for men's right have suggested that policy-oriented efforts for females have been misplaced, because the law entirely focuses on women and to safeguard the rights of women under domestic violence.

III. KINDS OF DOMESTIC VIOLENCE

(A) Physical Violence

Physical Violence include any physical activity to harm any person like hitting, slapping, pushing, punching, or throwing any substance on a person. When any person uses physical force to harm somebody it is called physical violence. In many cases of domestic violence physical violence is severe in nature. Many men are victimised under physical violence where the wives have anger issues and also by their in-laws.

(B) Psychological Violence

This includes violence through emotions, words, criticisms and mentally harassing someone. It can be in forms of threats for false accusations of dowry and other female biased laws. In psychological violence, it has been reported 85% abuse against the male was criticism, 29.7% were insulting and 3.5% were threatening⁷. Many men are threatened by their wives and in-

⁵ Sociological study of domestic violence against men in Jaipur City, 2016-2017

⁶ Kimmel. M. (2001)

⁷ Cross-sectional study of gender-based violence against men in rural area of Haryana.

laws and also verbally abused often. Unkind and cruel words linger in the mind of males and affect them mentally. In many cases men are most affected by mental abuse rather than physical abuse. Some of the examples of psychological violence are:

- Insulting
- Name calling
- Character shaming
- Threat to commit suicide
- Blackmailing
- Not letting to meet or preventing from meeting any person
- Insults for not earning enough money, etc.

IV. LEGAL APPROACH OF INDIA ON DOMESTIC VIOLENCE

In India Domestic Violence has been seen as a crime against women only. So, the laws of India which directly deals with Domestic Abuse are:

- The section 498-A of Indian Penal Code
- The Dowry Prohibition Act
- The Protection of Women from Domestic Violence Act, 2005

(A) Section 498-A of the Indian Penal Code:

The IPC, 1960 is the most important substantive law of India. Some amendments have been done in IPC regarding domestic violence to safeguard the rights of the citizens of India. One such amendment is 498-A. This section states that male spouse or anyone related to the spouse of a woman, if subjects the woman to any cruelty will be a criminal in nature and will be made liable under this section. Cruelty has been defined under this section 498-A in the explanation. It has been stated that cruelty is-

- any intentional conduct which is likely to drag the women to do suicide, or to cause any serious harm to the women
- harassment of the women like forcing the woman or any other person in relation with her to fulfil any illegal demands.

(B) The Dowry Prohibition Act⁸

As the name suggest it came as a law to cease dowry activity which was much prevalent as a social evil in India. Dowry is an unlawful demand of money, financial assistance, properties,

⁸ The Dowry Prohibition Act, 1961.

or other such things from the groom's family to the bride's family before, during or after the marriage. Generally, women are subjected to domestic violence if she or her family is unable to fulfil the unlawful demands from the groom's family. This act came for controlling for the activity of dowry. In addition to this, violence occurring due to non-fulfilment of dowry is also regulated through this act. The Act also provide specific powers to construct rules and regulation regarding giving and taking of dowry.

(C) The Protection of Women Against Domestic Violence Act

This act came in 2005 through parliament to tackle the problem of violence and protection of women against violence in domestic setup. The act came into force on 26th October 2006. This act stated that violent does not only include physical violence but also verbal, emotional, sexual, and economical violence. This is a law of civil nature for safeguarding orders and not meant to be put in criminally⁹. Domestic violence has been defined in the act under section 3 of the said act.

This legislation became an admirable legislation which study and appreciate wider varieties of violence against females. Before the said act came, all different situation of abuse in domestic set-up inside the family are to be dealt under Indian Penal Code¹⁰.

From this we can know wide variety of legislation, rules and regulation have been made but all the laws made are for safeguarding the rights of women. Specifically, in every law it has been mentioned that the law for domestic violence is for the women. There is no law for safeguarding the rights of men against cruelty or domestic violence. These are gender biased laws and there must be laws for saving men as well.

V. GROUNDS FOR UNDERREPRESENTATION OF CASES OF DOMESTIC VIOLENCE AGAINST MEN.

In the patriarchal, men dominated society, men think it is mortifying and embarrassing to be harmed by wife or being a victim of domestic violence. Under this societal pressure they often come up to report the abuse. The oppression from the parentage also bars them to take any lawful measures against her wife. Also, sometimes for the fear of being part from children also stop them from reporting violence. Mostly men are in the fear of getting deceived in fallacious allegation under 498-A of Indian Penal Code. Many men feel ashamed to complain about problems in their marriage that they are beaten by their wives and when they complain no one

⁹ Legal Service India

¹⁰ Domestic Violence- The Shadow Pandemic

take them seriously or do not believe them¹¹.

The probable reasons for under reporting may be feeling ashamed, insults, fear, getting blamed, etc. Other probable reasons can be belief or hope that things might get better, protection, love towards children and family. If men will complain that they are beaten by their wives, that will be perceived as feminine behaviour in this patriarchal society¹².

VI. NEED FOR GENDER NEUTRAL RULES: CONCLUSION AND RECOMMENDATION.

Being safe and treated in right way is the basic right of every citizen of India. Any violence can affect a person mentally, emotionally, and psychologically. Unreported cases against male can lead to divorce, depression and in extreme cases suicide¹³. Despite the data being available that men are also victim under Domestic Violence, there no law that is made by the legislature. All the laws against domestic violence are made for women. Supreme Court has already shown distress and to bar legal insurgency from misuse of these female biased laws such as 498-A of Indian Penal Code.

In cases where males are false accused due to female biased laws, there must be a legislation that can address to such false allegation. It is the need of the hour to bring into effect gender neutral laws and to implement laws that will treat both men and women equally. Difference must not be made while making rules for domestic abuse as it can be considered as violence between spouses. The family construction and community as a whole are evolving and so are the norms and values regarding gender violence. Domestic violence act is understandably made only for women. Data and research have suggested that male are also victims in domestic violence and being harassed by their spouse or family members. Therefore, necessary steps must be taken to end this lawlessness and obligatory amendments addressing violence against men must be made.

¹¹ Sarkar, S Dsouza, R Dasgupta, A Domestic violence against men: A study report by Save Family Foundation.

¹² Kumar A, Domestic Violence against men in India.

¹³ Sarkar, S Dsouza, R Dasgupta, A Domestic violence against men: A study report by Save Family Foundation.