

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

© 2023 *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 the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

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

Laws Regulating Intimate Partner Violence against Men in India: A Comparative Study

NIVEDITA TIWARI¹ AND TULSI²

ABSTRACT

When we often hear the term 'Domestic Violence', we often feel that it is only the men who could be the aggressor. As it was presumed that because of lower status women enjoyed very less power in decision making, and when they tried to go against the decision of their husband they were subjected to violence. However, Violence knows no gender. Victim or aggressor could be anyone – male or female. This Article aims at analysing the problem of "Domestic Violence Against Men". Although women in the country are protected against domestic violence through various Penal Laws such as 'Indian Penal Code', 'Protection of Women Against Domestic Violence, 2005', 'Dowry Prohibition Act, 1961'. However, there isn't any specific law which deals with the said problem though the number of cases are on surge every day. This is not only the case with India, but even Developed Nations such as USA, UK and Australia are not free from this evil. There are numerous reasons as to why the cases go unreported and problems faced by men to get their cases registered. While we are trying to empower one section of the society i.e. women, the condition of the men is going down the dump. In order to curb the menace, Article highlights the issues for not having any specific law and proposes solution in order to bring an effective control on the rising number of cases so that the rights and interests of the men could be protected too.

Keywords: Domestic Violence Against Men, Gender Neutral Law, Legal Reform.

I. INTRODUCTION

Unlike Sex; which is a biological construct, gender is a social construct. They are many factors that influence gender for example the class, culture, sexual preference, rituals practiced within a country. India witnesses much more gender rigidity in comparison to other south Asian countries. It is this rigidity that had led to the rise in gender biases and stereotypical notions.

The term "Domestic Violence" may be inclusive of wide range of violent acts which are committed by one member of a family or household against another. As defined by United Nations, it basically involves retaining or controlling behaviour of an individual in any kind of

¹ Author is a student at SRM University, Delhi-NCR, Sonapat, Haryana, India.

² Author is a student at SRM University, Delhi-NCR, Sonapat, Haryana, India.

intimate relationship.³ All kinds of abuse – such as physical, mental and sexual abuse are included in the Domestic Violence. The difference between Domestic Violence and other kind of violent acts is that abuser and victim are well known to each other⁴.

When we often hear the term ‘Domestic Violence’, we often feel that it is only the men who could be the aggressor. However, Violence knows no gender. Victim or aggressor could be anyone – male or female. India is known to have remained a male-dominated patriarchal society since ancient times which has led us to believe that it is always the men who dominate the women or commit violence against her. The men are often stigmatised, stereotyped and victimised of committing various physical, mental and sexual offences against women.

However, with the changing time, nature and composition of society; this thinking of ours have to change. Men also could be the victims due to shifting power structures, control over resources and economic independence. Hence, the proposed solution in order to bring an effective control on the rising number of cases and to protect the right and interests of the men; there is an urgent need for law which would be dealing with this issue.

(A) Statement of the Problem

This Article aims at analysing the problem of “Domestic Violence Against Men”.

According to the World Health Organization (WHO), Men too, can be victims of domestic violence; like female victims, they tend to present initially with their injuries to a family physician or an emergency room. It is thus a relevant issue for physicians of all specialties⁵.

Surprisingly, In India, out of 1000 men, 51.5 per cent experience spousal violence least once in their lives⁶. About 1 in 3 men experienced, physical violence, stalking and physical violence by an intimate partner during their lifetime. Nearly 56% of men who were victims of physical violence, stalking, contact sexual violence by an intimate partner have experienced this violence before the age of 25⁷.

Although women in the country are protected against domestic violence through various Penal

³ Sofia Bhambri, *Domestic Violence On Men in India*, S. BHAMBRI AND ASSOCIATES, (Apr. 18, 2023, 10:00 PM) <https://www.sbhambriadvocates.com/post/domestic-violence-on-men-in-india>.

⁴ Nicole Prebeque, *Domestic Violence Against Men*, FIND LAW, (Apr. 18, 2023, 10:15 PM) <https://www.findlaw.com/family/domestic-violence/domestic-violence-against-men.html>.

⁵Jabsir Singh Malik and Anuradha Nadda, *A Cross-sectional Study Of Gender-based Violenc Against Men in the Rural Area of Haryana, India*, NATIONAL LIBRARY OF MEDICINE, (Apr. 18, 2023, 9:15 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7658679/>.

⁶ Rudrani Gupta, *Domestic Violence Against Men, Why don't we take it seriously?*, SHETHEPEOPLE, (Apr. 19, 2023, 10:20 PM), <https://www.shethepeople.tv/top-stories/opinion/male-domestic-violence/>

⁷ *Intimate Partner Violence, Sexual Violence, and Stalking Among Men*, Centre for Disease, Control and Prevention, (Apr. 20, 2023, 9:00 AM), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/men-ipvsvandstalking.html>.

Laws such as ‘Indian Penal Code’, ‘Protection of Women Against Domestic Violence, 2005’, ‘Dowry Prohibition Act, 1961’. However, there isn’t any specific law which deals with the said problem though the number of cases are on surge every day.

(B) Research Methodology

The research methodology used in analysing this problem is Doctrinal or Library Based Research. This kind of research involves conducting deep research by using materials such as dictionaries, encyclopaedias, fundamental textbooks, treatises, and journals. As these tools include descriptions of terms that helps the researcher in outlining and comprehending the legal concepts at work in the area of law under consideration.

Reports such as ‘Male History of Domestic Violence and their Perpetrating Violence and their History of Domestic Violence’, ‘Domestic Violence – A curse to Man in a Male dominated Society’ published in International Journal Research of Creative Research’ is been referred to.

(C) Research Objective

The Research objective of this Article is to

- Analyse and compare the Statistics of rising number of cases of Intimate Partner Violence Against Men in India and other countries;
- Find out the reason as to why there is a need for law reform by enacting a gender-neutral law.
- Modifications required in the Legal Framework in India.

II. HISTORICAL BACKGROUND

Historically India have tended to remain a male dominated patriarchal society. Women were seen as subordinate to Men. Infact Manu, the author of Manu Smriti had stated that women ought to be beaten to straighten up and get their acts together. The text perpetuates sexism by saying that “A woman who controls her mind, speech, and body is never unfaithful to her husband attains the world of her husband, and virtuous people call her a good woman⁸”, “Though he may be bereft by virtue, given to lust, and totally devoid of good qualities, a good woman should always worship her husband like god”⁹.

As Manu Smriti was given lot of importance in the ancient time and it was a kind of law being

⁸ *Manu's Code of Law: A Critical Edition and Translation of the 'Manava-Dharmasastra,'* by Patrick Olivelle” [Chapter 5 (165)]

⁹ Smitha T K, *Manusmriti :The Problematic Guide to being a 'Good woman' and 'Good Wife'*, THE QUINT, (May 15, 2023, 9:40 PM) <https://www.thequint.com/news/india/manusmriti-guide-good-woman-bjp-sanatana-dharma-wife-delhi-high-court-judge-pratibha-singh#read-more>

followed; women used to suffer all the atrocities of the husband owing to the divine displeasure they may obtain by not adhering to the text. They had the fear that they would be condemned in the world and take birth in the womb of Jackal, with all kinds of diseases.¹⁰

Even under British Rule, women had fewer rights and had to fight for several rights. Due to the combined efforts of social reformers such as Ishwar Chandra Vidyasagar, Raja Ram Mohan Roy; women could get laws passed in their favour such as Sati Prohibition Act, 1729; Widow Remarriage Act, 1848 lately to enjoy the status of coparcener under Hindu Succession Act of 1956.

It was presumed that because of lower status women enjoyed very less power in decision making, and when they tried to go against the decision of their husband they were subjected to violence. They did not have any option of recourse to address their grievances. To protect their interest laws such as Protection of Women against Domestic Violence was enacted in the year 2005. The objective of the said Act read as “An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto...¹¹”. Gradually Women have starting enjoying status in par with men. They enjoy all the rights and privileges in every area as their male counterparts enjoy and it is even supported by constitutional provisions. The female population, irrespective of residing in rural or urban areas are fully aware of their social, economic and political rights¹².

While we are trying to empower one section of the society i.e. women, the condition of the men is going down the dump. Cruelty can arise from any person who is filled with narcissism, hate and vengeance. The same issue was highlighted in a movie titled “Martyrs of Marriage” that had addressed the concern of rising violence against men. A study was conducted in the year 2014 which involved female and 1,104 male students in their late teens and early twenties; that revealed women are found to be more aggressive and dominating on their partners and to ensure control they might even use physical aggression. The author of this study, Elizabeth Bates therefore observed that intimate partner should not only be seen as being motivated by patriarchal values, but also to be looked from other forms of aggression¹³.

¹⁰ *Manu's Code of Law: A Critical Edition and Translation of the 'Manava-Dharmasastra,'* by Patrick Olivelle” [Chapter 5 (164)]

¹¹ Subhodip Chakravarthy, Law on Domestic Violence, SCC ONLINE BLOG (May 15, 2023, 9:40 PM) https://www.sconline.com/blog/post/2020/07/27/law-on-domestic-violence-protection-of-women-from-domestic-violence-act-2005/#_ftn1

¹² Dr. Shivani Shrivastav, *Changing Status of Women in India*, Vol.4, INTERNATIONAL JOURNAL OF RESEARCH IN HUMANITIES & SOCIAL SCIENCES, 68, 69-70, 2016

¹³ Shonee Kapoor, *Domestic Violence Against Men*, SHONEE KAPOOR, (May 5, 2023, 9:40 PM)

Until 1970s only the concept of Battered Women Syndrome was in prevalence. Experts believed that only women could face this post- traumatic stress disorder. However instead of Battered Women Syndrome experts now use Battered Spouse Syndrome reflecting the fact that Domestic Violence can happen to Men too as there is no gender justification for the same. Similar to Battered Women Syndrome, Battered Men Syndrome, happens when a man has been physically, emotionally or sexually abused in violent intimate relationships¹⁴.

III. TYPES OF DOMESTIC VIOLENCE AGAINST MEN

It is not easy to recognise Domestic Violence Against Men. It may go unnoticed in the early part of relationship and it might appear that the partner is generous, attentive and protective but later on it may turn out to be a frightening experience. According to study conducted by National Coalition Against Domestic Violence 1 in 4 men have suffered some kind of physical violence from their partner¹⁵.

There can be different forms of domestic abuse – such as physical, emotional, psychological, financial , sexual etc. Apart from being directed solely towards the man it can be directed towards his children, or loved one too. Men could also be harassed from the kith and kin of his wife.

The types of Abuse may involve following behaviour; however it is not only limited to these-

1. Controlling behaviour : It involves an act which makes a person dependant or isolated from the source of support such as family friends and colleagues, exploiting the capacities and resources to be utilised for the personal gain, regulating their everyday behaviour by constantly checking the whereabouts of the victim, depriving them means needed for independence, showing oppressive possessiveness. Due to such behaviour of the aggressor the victims becomes subordinate and do not have independent existence of his own. He merely becomes puppet in the hands of the aggressor.

2. Coercive Behaviour: in order to punish, frighten or harm the victim; acts of threats, intimidation, humiliation, could be used. Intimidating may involve causing apprehension or fear through actions and gestures. It may involve acts such as breaking things deliberately to cause harm to the property, threats to expose embarrassing personal information, or threats to tell the

<https://www.shoneekapoor.com/domestic-violence-against-men-2/>

¹⁴ Dan Brennan, *Is there such a thing such as Battered Men Syndrome ?*, MEDICINENET, (May 5, 2023, 9:15 PM) https://www.medicinenet.com/is_there_such_a_thing_as_battered_husband_syndrome/article.htm

¹⁵ Ibid (2).

police that the victim is committing violence against her and the children though it might not be true.

3. Emotional / psychological: this kind of abuse is used to influence a person's thoughts and actions with a view to hurt, manipulate, weaken or frighten a person mentally and emotionally¹⁶. Mocking sexual performance in front of colleagues, friends etc, Deliberately preventing the victim to meet his child by breaching the orders of the Court may form part of this abuse. It can be understood from the real-life example of Ritesh Dwivedi who committed suicide as his wife prevented him from meeting his daughter and had also filed a superfluous case under Section 498A of IPC¹⁷.

4. Economic/Financial Abuse: this involves stealing money of the partner, coercing him into debt and restricting the partner's access to money and other resources. For example – not allowing the money to spent unless permitted which causes the victim to loose his economic Independence. It can also be in the form of extravagantly spending by using the credit/ score card without the victim being aware of it¹⁸.

5. False Implication: Provisions of legislations such as Section 498 A of the Indian Penal Code, Dowry Prohibition Act, Protection of Women Against Domestic Violence are used as tool by female spouses to harass their husbands to defame and extract financial gain. Moreover, the Husbands find it difficult to absolve themselves from these allegations due to reverse burden of proof. This has created a sort of 'Legal Terrorism' and the government is advised to make appropriate modifications to it¹⁹.

6. Sexual Abuse : Apart from physical and mental abuse, domestic violence in the form of sexual abuse can have serious implications on the husband. Sexual abuse may involve acts such as forcing the partner to have sex against his will, use of sexually degraded languages, forcing sex after physical assaults, making fun of the impotency of the husband, forcefully involving the husband in watching pornography against the will²⁰.

IV. REASONS FOR THE CASES GOING UNREPORTED

There are several reasons as to why people are unaware of the Bidirectional nature of Intimate

¹⁶ SAVE LIVES <https://safelives.org.uk/psychological-abuse> (Last visited on 16th May).

¹⁷ Anupam Dubey, The Issue of Domestic Violence Against Men in India, DAMMAN, (May 15, 2023, 10:40 PM) <https://www.daaman.org/post/the-issue-of-domestic-violence-against-men-in-india>

¹⁸ SURVIVING ECONOMIC USE <https://survivingeconomicabuse.org/what-is-economic-abuse/> (Last visited 16th May).

¹⁹ Snighda Shrestha, Gender Neutral Law for Domestic Violence : Need of the Hour NATIONAL LEGAL JOURNAL FOR RESEARCH AND INNOVATIVE IDEAS, (May 15, 2023, 10:40 PM) <https://rb.gy/01uj3>

²⁰ MAN KIND INITIATIVE <https://www.mankind.org.uk/help-for-victims/types-of-domestic-abuse/> (Last visited 15th May).

Partner Violence.

1. Stereotypes against men and traditional gender roles: from the childhood, boys are taught to be strong and not to cry like girls for each and every silly thing. When girls are given dolls to play, the boys are handed over cars. Men don't cry – is been infused in them since childhood. To be beaten by wife or being abused in any form would give them the title of being 'effeminate' or 'wimpy'. Expressing emotions raises the very question on them being a man.

A real man is one who is strong, assertive and protective. "When he is unable to protect himself from the wife, how will he be able to run the family" is the taunt they might have to hear. Hence, men feel uneasy to open the violence committed against them. They have the perception in their mind that there are strong laws to protect women but they don't have any specific law that seeks to protect their interest. Their effort will go in vain apart from being defamed in the society²¹.

2. Fear of cross cases : Men feel that a cross case can be registered against them by the wives. As it is still believed that men cannot be subjected to domestic violence. Because of the feminist mindset, it would be difficult for the women activists to digest that a man has been subjected to violence, instead they might feel that he is using this tactic to defame his wife or gain something out of her.

3. Family pressure : after the marriage the women stays in the house of husband. Thus, the entire family stays under one roof. The family of the husband might not want their son to be depicted as weak or the one who is a mere puppet in the hands of his wife. They might pressurise the husband not to complain as the honour of the entire family is at stake.

4. Concern relating to children : the victim might feel that the in their relationship may hamper the future of their child. It would raise the question of custody and complicate the problems. Just, not to involve the children many men tolerate the violence against them²².

V. LAWS REGULATING DOMESTIC VIOLENCE AGAINST MEN IN INDIA AND OTHER COUNTRIES

(A) Law regulating Domestic Violence Against Men

In India there is no law that specifically protects Domestic Violence Against Men. Hence, men do not have any straightforward provision to protect themselves from Domestic Violence. However provisions through various provisions contained under different legislations, Men can

²¹ Aditya Pandey, 9 Opening Facts and Statistics of Domestic Violence Against Men, MENSXP, <https://www.mensxp.com/special-features/features/108932-domestic-violence-cases-on-indian-men-facts-and-statistics.html> (May 15, 2023, 10:40 PM)

²² *Id* at 7.

seek appropriate remedy, though they might not be adequate.

a. Under Hindu Marriage Act, 1955.

Under Sec 13 of the Hindu Marriage Act, 1955; Cruelty can form a ground for divorce after the solemnisation of marriage. Under Section 153 (3) Section 200, the Husband can approach the Magistrate and present his complaint. The said complaint will be examined on oath of the complainant and witnesses present, the statement of the complainant, and any statement from friend, family member or even neighbour corroborating the same.

Issue with the said provision

The Husband will only be able to get divorce but will not be able to punish the wife for having committing Domestic Violence. This would be discrimination on the part of the husband as women apart from seeking divorce, can punish the man for his acts under Protection of Women Against Domestic Violence Act, 2005 and can also claim compensation for the same.

b. Provision under Indian Penal Code, 1860

If any physical violence is been committed against man, he can take recourse under Section 323 and Section 326 for Voluntarily causing Hurt and Grievous Hurt respectively²³. Remedy is also available under **Section 349 to 352, 355 & 357**, that deals with the offences ***of Criminal Force and Assault***. These provisions punish for intentionally causing bodily harm to a person or using criminal force to cause harm to a person intentionally.²⁴

However, if a man is domestically abused by his wife who has filed false case against him, the Husband can take recourse under following sections - Section 500 of IPC for Defamation, Criminal conspiracy under Section 120 B of IPC, Section 191 for submitting false evidence and Criminal Intimidation under Section 506 of IPC. Recourse under Section 167 of IPC can be taken by the Husband, if the erring Officers who refuse to file FIR or conspires with the wife in levelling baseless accusations against the Husband.

In the case of ***Rajesh Sharma v. State of UP***,²⁵ guidelines were issued by the Supreme Court that the complaints under Section 498 A is to be investigated by exclusive Investigating Officer, so that its misuse can be prevented. The bail proceeding of the accused should be processed on the same day as far as practicable if the said accusation has not caused death or resulted in

²³ Amulya Prashar, *Domestic Violence Against Men*, LEGAL SERVICES INDIA (May 15, 2023, 10:40 PM) <https://legalserviceindia.com/legal/article-10006-domestic-violence-with-men.html>

²⁴ LAW ANSWER ONLINE <https://lawansweronline.com/blog/safety-of-men-against-domestic-violence/> (Last visited 16th May).

²⁵ 2017 SCC 821.

apparent injury²⁶.

Issue with said provision

The husband can have recourse to these remedies only when physical violence in the form of hurt, grievous Hurt or assault is committed against him. The said remedy is not available in the cases of mental, financial or other such kind of abuses. Moreover, these are to be proved beyond all reasonable doubt and husband cannot get civil remedy in the form of compensation. Taking action against public servants for refusing to file FIR requires prior sanction and cogent evidences which may be difficult to collect on part of the husband.

For filing defamation case against the wife for false accusations he has to firstly fight a legal battle in which he should be honourably acquitted, collect evidences to show that he was falsely implicated etc. which is a very cumbersome procedure. The loss to reputation is not completely restored even after filing the defamation suit. These provisions also do not provide any direct and adequate remedy to the husband.

c. Provisions under Code of Criminal Procedure, 1973

Similarly Section 227 of CrPC contains the provision of discharge. An application under this section can be filed if there are sufficient evidences available with the Husband that the wife is making false accusation.²⁷

Issues with the said provision

An order of discharge can be passed only after reviewing the evidences and hearing both the sides. After the judge is convinced that there is insufficient evidence available against the accused only then he will be acquitted. The husband again has to run from post to pillar to refute all the allegations made against him. And also; time, money and reputation is already lost in defending himself and fighting the legal battle.

(B) Intimate Partner Violence in Other Countries

In United States of America, one out of every nine men is subjected to Intimate Partner Violence and 7 of them are even subjected to physical violence. Two out of every five victims of domestic violence in the United Kingdom are men. 1 in 16 men has been subjected to domestic abuse in the form of physical or sexual torture by their spouses, intimate partners, or cohabiting partners in Australia since the age of 15. One man was killed per month as a result of domestic violence

²⁶ *Id.* at 1.

²⁷ Aashima Kakkar, Are Men Subjected to Domestic Violence, LAW INSIDER (May 15, 2023, 10:40 PM) <https://www.lawinsider.in/columns/are-men-subjected-to-domestic-violence>

by his previous or current partner between the period 2012 to 2014²⁸.

VI. CONCLUSIONS AND SUGGESTIONS

(A) Proposed Solution: Need for Gender Neutral Law

As could be seen there is no specific legislation governing the issue of Domestic Violence Against Men. Hence, one possible solution could be widening the scope of Section 498 A to include men. There could be enactment of legislation “Protection of Spouse Against Domestic Violence” and hence both male and female could be included. And the older law which protected only Women from Domestic Violence could be repealed.

While we continue to empower women, we should ensure that no human becomes collateral damage of the process, be it either men or children. As it is clearly seen from the statistics that all over the world the issue is on the surge and appropriate measures are to be undertaken. Even famous celebrities have been subjected to Domestic Violence such as Tiger Woods was being attacked by a golf club and Johny Depp had to file a defamation suit against his wife for making false accusations.

As it was raised in the issues, that the remedies contained in the legislations such as Hindu Marriage Act, 1955; Indian Penal Code, 1860; Code of Criminal Procedure are not adequate and suffer from various kinds of lacunas. These remedies do not provide any direct and immediate remedy and do not cover all the kinds of abuses under Domestic Violence. Hence, there is a need to bring a legal reform which would the address the issue of Intimate Partner Violence Against Men in its entirety.

Apart from bringing in legal reform there is a need to change the existing thinking of the society. Society has to normalise men being emotional and sensitive. Men should come out and report the cases of Domestic Violence committed against them. Pressure groups have to play in pressurising the government to enact a gender-neutral law so that interests of the men could be protected too. At the same time society has to be made aware of this growing menace.

²⁸ Dr. Shivani Shivajiorao Ghumare, *Domestic Violence – A curse to man in a male dominated Society*, Vol.4, INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHT, 754, 755-56, 2021