

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor



School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs. S. Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

DOMESTIC VIOLENCE AGAINST WOMEN IN INDIA: AN ANALYSIS PERSPECTIVES FROM INDIA

Authored By- Shikha Bhatnagar

Faculty Of Law

Swami Vivekanand Subharti University, Meerut

Co- Author- Dr. Sarika Tyagi

Associate Professor

Subharti Institute Of Law

Swami Vivekanand Subharti University, Meerut, U.P.

Abstract:

Domestic violence is a major social problem which is as old as Human civilisation. Basically, domestic violence was seen way back to 19th century. In ancient period patriarchal system was prevalent where male used to dominate the female and used to suppress her.

women's position in society and in matrimonial home was so pitiable that females were meant to be confined under four walls of house, she was ill-treated , humiliated and since the day she is born she has to face inequality and she was meant to do all household chores and was not allowed to go outside of house for earning and at that time females were also not given decision making power.

Although our Indian legislature has made a specific law relating to domestic violence which is called as protection of women from domestic violence act,2005 in order to eradicate the offences related to domestic violence but this act does not seems to be that much fruitful because each day one out of three women either married or either living in Live-in relationship are subjected to cruelty, or become the victim of verbal abuse ,physical assault , sexual harassment , raped, eve teased, etc.

These are the means which are used by the Husband or by his other family members or by his close relatives in her own domestic home and that's why she does not feel safe in her own house and becomes a victim.

Furthermore, it has been seen that due to fear of being neglected or deserted by her husband, due to some social pressures, and because of fear of damage to reputation of one's family most of the time female victim avoid to file any complaint and doesn't even disclose anything about violence committed against her to anyone not even to her parents.

For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.^[1]

But see the irony even in present scenario the incidence of domestic violence and the crime against women has been considered as a worldwide epidemic which has not be curbed out till now.

In this research article researcher going to discuss the meaning, causes, types of domestic violence and adverse-effects of domestic violence against women, this article will include the statistics i.e percentage or number of cases registered related to domestic violence in India and at last conclusion & certain recommendations are provided to eradicate this menace from the society.

KEYWORDS: *Domestic Violence, Relationships, Partner, Socio-cultural, Abuse, Women, Wife beating, Physical, Psychological damage.*

Introduction

Domestic Violence is a most common crime in India . It happens within the home itself and is considered as a private family matter , here the term domestic violence means **Domestic violence** (also called **domestic abuse** or **family violence**) is [violence](#) or an [abuse](#) that occurs in a domestic house , such as in a [marriage](#) or [cohabitation](#). Domestic violence is also known as [intimate partner violence](#), which is committed by one of the people in an [intimate relationship](#) against the other person^[2] , although preventive laws have been made but still incidence of domestic violence are increasing day by day . If we take a deeper look, every second house has witnessed some sort of abuse against women in India, with the second largest population in the world India has a largest number of Domestic violence cases all across the

country here below is the statistics. Under the Protection of Women from Domestic Violence

(PWDV) Act the total number of complaints are : 2,95,601 have been filed, the Union government has informed the Supreme Court.^[3]

In every district court around 300 cases of domestic violence cases are still pending . Approximately daily minimum 100 cases of domestic violence are witnessed.

Though, the legislature has already enacted the laws like the Protection of Women from Domestic Violence Act, 2005 but this act has not been that much successful in reducing the crime of domestic violence.

Law cannot change the society overnight but its a slow and gradual process. The Supreme Court has always played a vital role in protecting the interests of women as per the changing situations and according to society's demand.^[4]

It is said that an offence of Domestic violence occurs when one person tries to dominate, humiliate and control, suppress the another person in a family or in a domestic relationship. The offence of domestic violence may occur in multiple Forms such as: [physical](#), [verbal](#), [emotional](#), [economic](#), [religious](#), [reproductive](#), or [sexual abuse](#). It can range from subtle, coercive forms to [marital rape](#) and other violent physical abuse, such as choking, beating, female genital mutilation , and throwing acid for the purpose of disfigurement of face.^[5]

The term domestic relationship has been defined under sec 2(f) “domestic relationship means a relationship between two people who live together or have in the past lived in the same house together, whether they are related to each other through blood relations , or either married, or having a relationship that has the characteristics of marriage, are adopted, or are members of a joint family.”^[6]

Meaning Of Domestic Voilence :

The word violence means a person using physical force against another person to cause any damage or injury to that another person or to his/her property . As per **Oxford Dictionary** the term violence means a "behavioural attitude which involves physical force in order to cause

injury , harm, or kill someone or something." ^[7]

WHO^[8] has defined Violence: when someone intentionally threatens to use physical force or power against themselves, another person, a group of people, or a community in order to create or is likely to cause harm, such as physical or psychological harm, stunted growth, or deprivation. ^[9]

‘Domestic violence is a kind of serious violence against women within the four walls of matrimonial home . It can be caused either by the husband, or by his parents, or siblings or any other close relatives.

It is such a crime which happens behind closed doors and it’s a harsh reality which Indian women faces and such domestic violence incidences are often denied by the women who has been victim of violence.’^[10]

The Term “ Domestic Violence against women” denotes any act or behaviour that violates a woman's physical, mental, emotional, or spiritual needs inside her home; yet, such an act or behaviour is typically carried out by the victim's own family members.^[11]

Types Of Domestic Violence

Domestic violence can be called by many names: wife abuse, marital assault, battery, spouse abuse, wife beating, conjugal violence, intimate violence, battering, partner abuse, The different types of domestic violence against women are such as physical, sexual, verbal and emotional abuse and economic abuse.

· **Physical abuse:** Physical abuse means committing assault, using unlawful force, and criminal intimidation against female victim. Few example of physical abuse :

Ø Pushed you.

Ø Slapped or beaten you.

Ø Kicked or choked you

Ø Hit or punched you.

Ø Thrown objects at you.

Ø **Sexual abuse:** Basically, sexual abuse is any abusive sexual activity committed by one

person against another; in this case, women are the primary victims. Few example of sexual abuse are :

- Ø Criticized you sexually.
- Ø Insisted on unwanted or uncomfortable touching.
- Ø Forced sex after physical abuse or when you were sick.
- Ø Raped you.
- Ø Making sexually coloured remarks
- Ø **Verbal and emotional abuse:** Verbal abuse is a type of emotional abuse. Verbal abuse is said to be committed when someone uses offensive words to assault, dominate, ridicule, manipulate, and/or degrade another person and furthermore causes negative impact on person's psychological health.^[12] Few examples are:
 - Continually criticizing someone or shouting at a person.
 - Insulting someone.
 - Humiliated other person in private or public.
 - The decisions refused to work or to share money.
- Ø **Economic abuse:** Economic abuse is defined as denying or threatening to deny the victim and her children access to financial resources or assets.^[13]

Causes Of Domestic Violence

Domestic violence is not caused only by one reason but is caused by a combination of various sociological/behavioral factors, historical, religious, and cultural causes which are discussed below:

- **Psychological:** A highly qualified girl cannot adjust in her matrimonial house.
- If a girl gets higher qualification, there will be difficulties in searching a bride groom.
- Girl has to perform household chores even if she is working.
- **Sociological/Behavioral Factors:** The sociological, behavioral and cultural factors include factors like anger issues/aggressive attitude, poverty/economic hardship, controlling/dominating nature, upbringing and psychological instability (bipolarism, depression, stress, etc.) . Extra-marital affairs or lack of trust also leads to domestic violence.
- **Historical Factors:** The historical factor can be seen in the old concept of patriarchy family. In ancient period women were suppressed and ill-treated,

beaten, humiliated by her husband. Earlier females were treated as an object of enjoyment and only for procreation of children.

- **SOCIAL CAUSES:** The social factors that contribute to crime against women include factors such as socially conditioned inferiority of women, patriarchal social structures, unhealthy family environments, inadequate education, broken homes, crowding in one-room families, excessive parental interference, lack of parental love, incarceration, drunkenness, immorality, cruelty, drug addiction, illness, and contemporary permissive environments, among others.
- **Cultural Factors:** One of the social variable that contributes to marital violence is the desire for a male child. This kind of mentality is the result of ignorance and the innate superiority of men, leads to domestic violence against women.
- **Dowry:** Dowry is one of the major social issue and one of the most important factor behind the increase in number of domestic violence cases in India .But unfortunately female is tortured and humiliated and abused by the family members verbally, physically for the demand of valuable items sometimes bride is burn because of non fulfillment of demand of dowry which is also called dowry death.^[14]

Impact Of Domestic Violence On Women

Violence against women can cause long-term physical and mental health problems. Furthermore, various other impact has been discussed below:

a. Effects on victim:

- Domestic violence causes serious consequences on women's mental and physical health, including their reproductive and sexual health. These include injuries, gynecological problems, temporary or permanent disabilities, depression and suicide etc.
- Emotional and psychological trauma — Devastating impact which is caused is on an individual's physical, mental and emotional health which further leads to depression, shame, anger and suicide
- Homelessness: Many people face the issue that they become homeless they are been thrown out of the matrimonial home due to demand of dowry.

Psychological Impact Of Intimate Partner Violence

Trust Issues

Anxiety

Depression

Symptoms of post-traumatic stress disorder

Suicidal behavior in females

Low self-esteem

b. Effects on children

out of those women who experience violence, more than 50% have children in their care. Studies show that living in the environment of domestic violence can cause harmful effect on children and youth in the following ways:

- Anxiety and depression
- Emotional distress
- Eating and sleeping disturbances
- Physical symptoms, such as headaches and stomach ache.^[15]

Domestic violence and Covid 19: A New dimension

Due to the sudden hike in COVID-19 cases over the previous few months, various international organizations became aware of an increase in domestic violence (DV) cases all over the world. Many nations noted a 15–30% increase in the amount of distress calls from women who were locked inside with violent relationships.^[16]

India's Prime Minister declared a national lockdown on March 24, 2020, in an effort to stop the Novel Corona virus from spreading. The National Commission of Women (NCW) reported a 100 percent increase in domestic violence complaints within a fortnight. The NCW then introduced a national WhatsApp line to give women another way to report domestic abuse.^[17]

Domestic violence is referred as a “parallel pandemic,” : “UN Women collected data from different parts of the world to highlight the increasing rate of domestic violence on women during the pandemic. In the first year of the epidemic, violence affected over 243 million women and girls between the ages of 15 and 49.

The World Health Organization (WHO) had already "released the disturbing data that almost one in three women globally, or 736 million women, are susceptible to violence" before the pandemic.

Between February 27 and May 31, 1,477 domestic abuse complaints were received by the National Commission for Women (NCW), which reported a 2.5 % rise in domestic violence instances. Number of cases of domestic violence received by NCW is 47.2% in the month of April and May 2020. ^[18]

Domestic abuse cases have increased during the lockdown, according to data gathered by State Legal Services (SLAs) for the National Legal Services Authority (NALSA). This information places The National Capital on the third place. Domestic violence accounted for 89% of all reported cases of violence in April. ^[19]

Statistical Data Of Domestic Voilence

Domestic abuse leads to rape as the most common crime committed against women, according to the National Family Health Survey. The level of violence in our nation is generally rising at alarming rate. In India, we are living in a patriarchal society with a olden and archaic mentality that is submissive to women.

According to data recently released by the Central Government, Uttar Pradesh has the highest number of domestic abuse cases in the nation. The state, which recorded 65,481 instances, won the lead, with Delhi registering the fewest cases at 3564. ^[20]

- **Karnataka:** According to the NFHS report, there have been 44 percent more domestic violence cases in Karnataka than there were nationwide. According to NFHS statistics, the number of these cases has climbed from 20.6 percent. According to the NFHS, sexual violence against women at the age of 18 was 10.3%, down from 11% in NFHS 4. (2015-16).
- **Bihar:** According to the NFHS 5 report, 8 percent of women aged 18 or younger reported having experienced sexual violence, down from 14.2 percent in the NFHS 4 data, and Bihar ranks second in terms of the percentage of women experiencing spousal violence between the ages of 18 and 49.

- **Manipur:** The state's cases of domestic and spousal abuse have steadily decreased, from 53.2 percent in NFHS 4 to 39.6 percent in NFHS 5, but they continue to be a serious contributor to the rise in domestic abuse. However, the percentage of women who have experienced sexual abuse at the age of 18 has decreased from 14 percent in 2015–16 to 5.4 percent in 2019–20.
- **Telangana:** The state saw a decrease in domestic violence cases from 42.9 percent in 2015–16 to 36.9 percent in 2019–20. assaults on the sexual
- **Assam:** A huge increase in percentage of cases of domestic violence and sexual abuse has been in the state of Assam, here Assam stands at 32% as per NFHS 5 and has increased from 24.5% as per NFHS 4.
- **Andhra Pradesh:** According to NFHS 5, domestic violence in Andhra Pradesh has decreased from 43.4 percent in NFHS 4 to 30 percent. According to NFHS 5, the number of sexual abuse cases in Andhra Pradesh has also decreased from 6.8 percent in NFHS 4 to 3.7 percent.
- **West Bengal:** The prevalence of domestic violence there has decreased from 33.1% in 2019–20 to 27% in 2015–16. Unfortunately, the rate of sexual assault in West Bengal has climbed from 8.9 percent in 2015 to 16 to 9.7 percent in 2019–20.
- **Maharashtra:** Domestic abuse in Maharashtra has increased from 21.3% as per NFHS 4 to 25.2% in NFHS 5. females who are the victim of sexual violence at one or on another time every second sexual offences are increasing as per NFHS report such cases have increased from 2.9% as per NFHS 4 to 6.2% as per NFHS 5.
- **Tripura:** experienced a significant drop from 28.1 percent in NFHS 4 to 20.7 percent in NFHS 5. According to NFHS 4, there were 10.2 percent of sexual assaults on girls under the age of 18 in Tripura. However, this number dropped to 7 percent in NFHS
- **Ladakh:** According to NFHS 5 statistics, there has been a sharp spike in domestic violence instances in Ladakh, which have gone from 8.5% to 18.1%. The case increased from 1.2 percent in 2015–16 to 8.7 percent in 2019–20 in the context of sexual abuse.

Figure 1: The blue indicator depicts the number of cases filed under section 498A of the IPC or 'Cruelty by Husband or His Relatives' divided by the women's population in lakhs. The blue indicator reports the percentage of ever-married women aged 18-49 years who had experienced spousal violence.

"As informed by National Legal Services Authority (NALSA), a total of 3,582 number of cases of domestic violence between April, 2021 and June, 2021

Figure 4: Crimes against Women cases as per FIRs registered.

Judicial Pronouncements On Domestic Voilence :

1. Surekha Mote vs. State of Maharashtra High Court of Bombay

- Held that "we have considered section 12 of the PWDV Act and the proviso to section 12. This does not mean that if no protection officers are appointed. The Magistrate ceases to have jurisdiction. That would frustrate the object of the act " this means that complaint can be entertained directly by the magistrate even if there is no protection officer

2. Shalu Bansals Case Delhi

Court directed that respondents shall provide rent for separate residence as maintenance to the aggrieved person.

3. **Smt shalini savita vs state of U.P. and anothers** : The Learned counsel for applicant contends that applicant - Smt. Shalini Savita was married to Chote Lal at Moradabad and due to demands of dowry and harassment for non-fulfillment of such demands, she had to lodge an F.I.R. against her husband and in-laws under [Section 498-A](#), [323](#), [504](#), [506](#) I.P.C. and apart from which, she had to file a complaint case under [Section 125](#) Cr.P.C. and another complaint case under [Section 12](#) of **Domestic Violence Act, 2005**.

Conclusion

Two particularly promising pieces of legislation that combine civil and criminal penalties to provide effective remedies to women who become victims of domestic abuse are the Domestic Violence Act of 2005 and the provisions of the Indian Penal Code of 1860. The statute, among other things, has provisions for protection officers, medical care, and free orders to help abused women defend themselves and their loved ones.

It is necessary to improve how the Act is applied. The first step in starting a police investigation, filing an Initial Information Report (FIR), is sometimes overlooked by officers, especially if the victim is from a low-income or socially disadvantaged area. Additionally, it is true that the Domestic Violence Act (DV Act) has not effectively addressed domestic violence-related

issues.

The law is typically applied improperly. Society needs more gender-neutral rules that treat men and women equally in these circumstances in order to prevent domestic violence from terrifying innocent people, as most men do, and from giving the other gender a tool for extortion.

REFERENCES

1. <https://groundreport.in/10-indian-states-with-most-domestic-violence-cases/>
2. <https://www.orfonline.org/research/domestic-violence-and-womens-health-in-india-insights-from-nfhs-4>
3. <https://en.wikipedia.org/wiki/Violence>
4. https://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_effective_prosecution_responses_to_violence_against_women_and_girls.pdf
5. https://en.wikipedia.org/wiki/Domestic_violence
6. https://www.futureswithoutviolence.org/userfiles/file/HealthCare/improving_healthcare_manual_1.pdf
7. https://economictimes.indiatimes.com/news/india/3582-cases-of-domestic-violence-reported-in-india-between-april-and-june-decline-from-2020-govt/articleshow/88297612.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

BOOKS:

1. Asia's Commentary on Protection of Women from Domestic Violence Act, 2005 and Rules, 2006 by NK ACHARYA Edition 2016.
2. Digest on protection of women from domestic violence [along-with act of 2005 & rules of 2006]
3. Law on Domestic violence in india paperback – 1 january 2015 by [dr. dipa dube](#)
4. Law Relating to Domestic Violence Paperback – 1 January 2009 by [R. Revathi](#)