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# **DOMESTIC VIOLENCE IN GUJARAT: A LEGAL RESEARCH STUDY**

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## **Abstract**

Domestic violence is one of the most common social and legal issues prevalent in India, especially against women living in Gujarat. Domestic violence is defined as any form of abuse happening within a family or between spouses, such as those living together, married or related by family ties. Domestic violence can take many different forms, such as physical, emotional, sexual or economic abuse. In India, the main legal provisions against domestic violence against women have been incorporated under the Protection of Women from Domestic Violence Act, 2005.<sup>3</sup> This act provides various forms of relief to victims of domestic violence, which includes provisions related to their fundamental rights being violated. Nevertheless, despite the presence of such legal provisions, the problem of domestic violence persists. This is because of the social stigma associated with the crime and the patriarchal values that are prevalent in society. In addition, the lack of awareness among the victims also fuels the problem. As reported by the National Crime Records Bureau, one of the major crimes against women in India is the cruelty shown by husbands and relatives.<sup>4</sup> This research paper aims at discussing the causes and consequences of domestic violence in the state of Gujarat.

## **Abbreviations**

DV - Domestic Violence

PWDVA - Protection of Women from Domestic Violence Act

IPC - Indian Penal Code

CrPC - Code of Criminal Procedure

NFHS - National Family Health Survey

NCRB - National Crime Records Bureau

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<sup>3</sup> Protection of Women from Domestic Violence Act, No. 43 of 2005, Acts of Parliament, 2005 (India).

<sup>4</sup> National Crime Records Bureau, Crime in India 2022, Ministry of Home Affairs, Government of India (2023).

NCW - National Commission for Women

PO - Protection Officer

NGO - Non-Governmental Organization

GOI - Government of India

GOG - Government of Gujarat

SCC - Supreme Court Cases

AIR - All India Reporter

## 1. Introduction

Domestic violence is the abusive behavior in the domestic sphere, i.e., the household. It is a serious infringement of human rights, which causes physical, emotional and psychological harm to the victim.

Domestic violence was traditionally considered a domestic issue in the family sphere, but with the development of gender equality and women's rights, domestic violence is now recognized as a critical social issue that needs to be addressed through the law.

A landmark in the law on domestic violence was achieved with the introduction of the Protection of Women from Domestic Violence Act in 2005, which provided comprehensive protection for women facing domestic violence in India.<sup>5</sup>

In Gujarat state, cases of domestic violence have been reported in both the cities and the rural areas. Major cities in the state include Ahmedabad, Surat, Vadodara and Rajkot. A large number of cases have been reported in these cities regarding domestic violence by husbands or family members. According to the National Family Health Survey, a large percentage of married women in India have experienced some form of violence by their spouses during their lifetime.<sup>6</sup>

Domestic violence not only affects women physically but also psychologically in the long run. A woman who is a victim of domestic violence may develop depression and anxiety, leading to low self-confidence.

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<sup>5</sup> Protection of Women from Domestic Violence Act, No. 43 of 2005, Acts of Parliament, 2005 (India).

<sup>6</sup> Ministry of Health & Family Welfare, Government of India, National Family Health Survey-5 (2019–21).

## 2. Meaning and Scope of Domestic Violence

Domestic violence is defined as a pattern of abusive and controlling behavior used by one individual to maintain power and control over another individual in a domestic relationship. The Protection of Women from Domestic Violence Act gives a comprehensive meaning to domestic violence and acknowledges various types of abuse.

Domestic violence under this Act comprises physical abuse, sexual abuse, emotional abuse and economic abuse.<sup>7</sup> The comprehensive meaning of domestic violence ensures that women are protected not only from physical abuse but also from emotional and economic abuse.

Physical abuse may take the form of beating, slapping or kicking the woman. Emotional abuse may take the form of humiliation, insults and threatening behavior. Sexual abuse is defined as the forcing of a woman to indulge in sexual acts without her consent. Economic abuse is defined as the depriving of a woman of her financial resources or her right to property and employment opportunities.

The Act also recognizes the right of the woman to reside in a shared household despite the ownership of the property. This is an important provision of the Act, as there is a threat of eviction of the woman from her marital home.

## 3. Causes of Domestic Violence in Gujarat

Domestic violence in Gujarat is affected by a number of social, cultural and economic factors. First and foremost, domestic violence in Gujarat is caused by the patriarchal character of the Indian social structure. In a patriarchal social structure, men traditionally dominate the household. This leads to the subordination of women and the acceptance of domestic violence as a means of subordination.

Another major factor is the dowry system. Dowry is one of the major causes of domestic violence against married women at the hands of their husbands and in-laws. This is specifically criminalized under Section 498A of the IPC.<sup>8</sup>

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<sup>7</sup> Protection of Women from Domestic Violence Act, 2005, § 3 (India).

<sup>8</sup> Indian Penal Code, No. 45 of 1860, § 498A (India).

Economic dependence is another important factor that contributes to domestic violence. In Gujarat, women are economically dependent on their husbands or other members of their families and cannot leave a violent relationship.

Alcohol consumption is another important factor that is often associated with domestic violence. It has been studied that alcohol consumption leads to increased aggression and results in domestic violence.

Social stigma and cultural values are also important factors that prevent women from disclosing domestic violence. Victims of domestic violence often keep quiet due to social stigma and pressure from other family members to maintain a relationship.

#### **4. Legal Framework Addressing Domestic Violence**

##### **Protection of Women from Domestic Violence Act, 2005**

The major legislation dealing with domestic violence in India is the Protection of Women from Domestic Violence Act. This legislation provides women with relief and protection in cases where they are subjected to domestic violence.

The legislation enables victims to seek relief in the form of protection orders that prevent the accused party from subjecting them to further violence. Additionally, the legislation provides for residence orders that prevent women from being forcibly evicted from their shared household. Women may also be awarded monetary relief for medical and other expenses.

Another significant aspect of this legislation is the appointment of protection officers who help women in lodging complaints and seeking relief.<sup>9</sup>

##### **Section 498A of the Indian Penal Code**

Section 498A of the IPC criminalizes cruelty by a husband or his relatives. Cruelty includes harassment for dowry and conduct that may cause serious injury or danger to the life or health of a woman.<sup>10</sup>

This provision allows victims to initiate criminal proceedings against abusive family members and serves as a deterrent against domestic violence.

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<sup>9</sup> Protection of Women from Domestic Violence Act, 2005, § 8 (India).

<sup>10</sup> Indian Penal Code, No. 45 of 1860, § 498A (India).

## 5. Landmark Judicial Decisions

Indian courts have played an important role in the interpretation of the law regarding domestic violence.

In the case of *Indra Sarma v. V.K.V. Sarma*, the Supreme Court held that women in live-in relationships could seek protection under the Domestic Violence Act, provided the relationship resembles marriage.<sup>11</sup>

In the case of *Hiral P. Harsora v. Kusum Narottamdas Harsora*, the Supreme Court struck out the words “adult male person” from the Domestic Violence Act, allowing women relatives to file cases as well.<sup>12</sup>

In the case of *D. Velusamy v. D. Patchaiammal*, the Supreme Court interpreted the circumstances under which a live-in relationship could be construed as “in the nature of marriage.”

Such judgments have greatly enlarged the ambit of the Domestic Violence Act in favor of women.<sup>13</sup>

## 6. Challenges in Addressing Domestic Violence

Despite these legal provisions, the issue of domestic violence continues to persist as a major problem in Gujarat. One of the major problems is that of underreporting. There is a lot of reluctance on the part of victims to file complaints against their husbands.

Another problem is that of awareness about legal provisions. Women living in rural areas may not be aware of legal provisions such as the Domestic Violence Act, which is available to them.

Another problem is that of judicial delays. Legal procedures take a lot of time, which may discourage victims from filing complaints against their husbands.

Another problem is that of pressure from families, which may encourage victims to reconcile with their husbands, even if such husbands are abusive.

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<sup>11</sup> *Indra Sarma v. V.K.V. Sarma*, (2013) 15 S.C.C. 755 (India).

<sup>12</sup> *Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 S.C.C. 165 (India).

<sup>13</sup> *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India).

## 7. Conclusion

The problem of domestic violence continues to pose a significant challenge for society and the law in Gujarat and India as a whole. Although the government has enacted several pieces of legislation such as the Protection of Women from Domestic Violence Act and Section 498A of the IPC, the effective implementation of such acts is still a problem.

Awareness and the effective implementation of the law are the keys to resolving the problem of domestic violence. Government initiatives and support for the women are also important for the effective resolution of the problem.

The problem of domestic violence can only be resolved by implementing a combination of the above.

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