

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

DOMESTIC VIOLENCE: ANALYSIS OF FEMALE DOMAIN

AUTHORED BY- EVEMASTUSHREE

1st year, LLM

MATS UNIVERSITY, AARANG CAMPUS, RAIPUR

ABSTRACT

Theoretically, domestic violence raises questions about its impact on victims' lives. During the last decades, an increasing interest is shown by international organizations and governments to address the different types of domestic violence, such as intimate partner violence, for promoting women's protection of human rights. This paper initially surveys through the Literature and reports define domestic violence. The paper proceeds with the exploration of the sociolegal aspects of domestic violence (the existing laws and theories), identifying causes and the effects accruing from the persistence of gender stereotypes. For this purpose, the paper This study draws on recent theoretical research to evaluate these causes and effects. Analysis shows that the English legislation and criminal justice could go further to support women to deal with domestic abuse.

Key words: domestic violence, legislative framework, legal system, criminal justice.

INTRODUCTION

Domestic violence refers to violence and abuse **that occurs** in a domestic setting, **such as** cohabitation or marriage. It is important to remember that domestic violence is not **limited to physical abuse; it includes** any behavior that **attempts** to gain power and control over the victim. It can affect people from all walks of life and **primarily involves** a partner, spouse, or intimate family member.

WHAT IS INTIMATE VIOLENCE PARTNER?

Intimate partner violence (IPV) is a pattern of assaultive and coercive behaviors that may include physical injury, psychological abuse, sexual assault, progressive isolation, stalking, deprivation, intimidation, and reproductive coercion. These behaviors are perpetrated by

someone who is, was, or wishes to be involved in an intimate or dating relationship with an adult or adolescent, and are aimed at establishing control of one partner over the other. It can occur among heterosexual or same-sex couples and can be experienced by both men and women in every community, regardless of age, economic status, race, religion, ethnicity, sexual orientation, or educational background. Individuals subjected to IPV may have lifelong consequences, including emotional trauma, lasting physical impairment, chronic health problems, and even death.

More than one in three women in the United States have experienced rape, physical violence, or stalking by an intimate partner in their lifetime. In the United States, women experience 4.8 million incidents of physical or sexual assault annually. However, the true prevalence of IPV is unknown because many victims are afraid to disclose their personal experiences of violence. IPV caused 2,340 deaths in 2007; of these, 1,640 were women and 700 were men.

STALKING IN INDIA

Before the amendment in criminal laws, the term stalking was not directly included in the penal law of India. Stalking was covered under the category of harassment, such as voyeurism, sexual harassment against women, and it was covered under Sections 354 IPC/74 BNS and 509 IPC/79 BNS for using words or gestures to insult a woman's modesty. Due to the shortcomings in the essentials of section 354 IPC/74 BNS and section 509 IPC/79 BNS, in most of the cases the wrongdoer moves freely from the court because it is hard to prove the certain essential conditions to constitute a crime-

1. The attack must be against a woman,
2. The offender must have used excessive force,
3. Women's modesty should be offended.

Therefore, there is a need to enact a separate law for stalking in India.

The act of stalking as of today after the criminal amendment act 2013, is a cognizable, bailable and non-compoundable offence with punishment-

1. up to three years and fine for the first conviction
2. up to five years, with a fine for repetition.

According to Section 354 D of Indian Penal Code/78 of Bharatiya Nyaya Sanhita 2023, Stalking means and includes-

- (1) Any man who —

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors a woman's use of the Internet, email, or any other form of electronic communication; and commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) In particular circumstances, such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term

1. which may extend to three years, and shall also be liable to a fine;

2. and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine

According to the National Crime Records Bureau report of 2018, there were 9,450 stalking cases reported in India. This indicates that, on an average, there is one stalking case every 55 minutes.

INFIDELITY

Infidelity is the breaking of a promise to remain faithful to a romantic partner, whether that promise was part of marriage vows, a privately uttered agreement between lovers, or an unspoken assumption. Although the notion of breaking such promises may be unthinkable at the time they are made, infidelity is common, and when it occurs, it raises thorny questions: Should one stay? Can trust be rebuilt? Or is there no choice but to pack up and move on?

JEALOUSY & DOMESTIC VIOLENCE

In a recent community study of jealousy, 15% of both men and women reported that they had, at some time, been subjected to physical violence at the hands of a jealous partner (Mullen & Martin 1994). The role played by jealousy in both initiating domestic violence and in attempts by perpetrators to justify their violence cannot be overstated. In a study conducted in Scotland, nearly half of the 109 battered women interviewed identified their partner's excessive possessiveness and sexual jealousy as the typical precipitant of violence (Dobash & Dobash

1980). Two-thirds of the women at a refuge for battered women in the London area reported that their partner's excessive jealousy was the primary cause of the violence and that, in many cases, the partner's suspicions were entirely without foundation (Gayford 1975, 1979). Studies from North America produced similar results; for example, Hilberman and Manson (1977) reported that extreme jealousy contributed to the violence in most of their group of 60 battered women, and Rounsaville (1978) noted similar findings with 52% of the battered women listing jealousy as the main problem and no less than 94% naming it as a frequent cause. Interestingly, in one of the few studies to ask men why they battered their partners, they most often nominated anger at supposed infidelity (Bisson 1983). Whitehurst (1971), reporting on 100 cases of spousal violence, noted that in nearly every case, the husband appeared to be responding out of frustration at his inability to control the partner, and that the overt accusation was that the partner was sexually unfaithful.

Jealousy would appear from such studies to be capable of motivating domestic batterers and offering an excuse or rationalization for the violence. It tells a great deal not only about the attitudes of batterers but also about the values of the cultures in which infidelity can be appealed to as legitimizing such violence.

JEALOUSY & KILLING

Another issue highlighted by studies on domestic violence and jealousy is the extent to which the batterer's jealousy was excessive or even morbid. The violence can on occasion have fatal consequences for as noted by the 17th century divine Robert Burton (1621/1827 pg. 428) "those which are jealous proceed from suspicion to hatred; from haired to frenzy; from frenzy to injury, murder and despair". Male sexual jealousy has been claimed to be the commonest motivation to killing in domestic disputes in North America (Daly, Wilson, & Weghorst, 1982), and there is every reason to suppose that this is true of other societies.

Studies that have examined the motivations of those who kill have usually relied on police summaries, which often go no further than specifying, for example, that the killing arose in the context of a domestic quarrel. The few studies that have attempted to obtain greater detail have often identified jealousy as a significant component in the disagreements that culminated in the killing. Gibbens (1958) in his study of 195 homicide cases reported that jealousy was the prime motivation in 22% of the killings. In Wolfgang's (1958) study of 588 homicides and West's (1968) study, jealousy was the third most common motivation. In a more detailed study of

homicide in Detroit, jealousy emerged as the leading cause of domestic killings, while among male killers, violence emerged in response to apprehended infidelity and desertion. In a Canadian study covering over a thousand spousal homicides, 20% were attributed to jealousy, with men being the killers in 195 instances compared to 19 for women. Daly and Wilson (1988) argued these figures underestimate the role of jealousy, as many instances of jealousy are obscured by labelling the cause as "anger or hatred" or "argument or qualTe1". Hafner and Boker (1982) examined a range of violent offenders, including homicide cases, and reported that 13% of all violent assaults were motivated by jealousy.

Studies of homicide in non-Western and non-industrial societies have also indicated that the majority of spousal killings were precipitated either by suspicion about the wife's infidelity or by the woman deserting or indicating an intention to leave her male partner (Daly and Wilson 1988).

CONCLUSION

Domestic violence is one of the most horrendous kinds of abuse suffered by women in our society today. The statistics show that 85% of domestic violence victims are female. Only 15% of victims are men. Domestic violence can occur in anyone, regardless of race, creed, religion, or social standing. If the issue of domestic violence is not addressed in a sufficient manner, this type of abuse will continue among all classes of society. To eradicate this horrendous type of abuse, we as a society need to stand together and enact stricter laws that will protect the victims of abuse.

SUGGESTIONS

Having worked in the court system, I have interviewed over 10,000 victims of domestic violence. These victims came from all walks of life, all levels of education, and all professions. Aside from being primarily female, they shared one common trait: they grew up in a home with domestic violence. They learned at an early age that violence was an acceptable form of interpersonal communication. Although the number of abusers I interviewed was much smaller, they shared this childhood history. In my opinion, we can greatly reduce domestic violence in one generation by adding an additional charge to the defendant when a child is in the home or witnesses the violence and by immediately providing court-supervised counseling for these children so that they understand violence is not acceptable.

REFERENCES

1. The Bharatiya Nyaya Sanhita, 2023
2. IndiaCode (statutory collection) — previous IPC Section 354D— for historical comparison and prior judicial interpretation.

