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# DOMESTIC VOILENCE:-

## Agony On Women

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### Abstract

Domestic violence is one of the most common crimes against women which are inextricably linked to the perpetuation of patriarchy. Domestic violence refers to violence against women not only in matrimonial homes but also in live-in-relationship. Domestic violence is recognized as the significant barrier in the path of women empowerment and also skews the democratic set up of the polity. India has specifically legislated Domestic Violence Act in 2005 to reduce the violence against women but the same has bore mixed result as of now. The paper examines the domestic violence in multi-dimensional perspective.

**Keywords:** cognizable crimes, domestic violence, human rights, NCRB, patriarchy

### INTRODUCTION

Over the last decade, violence against women in developing countries has emerged as a growing concern among researchers and policymakers interested in women's health and empowerment. In developing countries, women are vulnerable to many forms of violence, and domestic violence represents the most common form.<sup>1</sup>The World Health Organization defines domestic violence as “the range of sexually, psychologically and physically coercive acts used against adult and adolescent women by current or former male intimate partners.”<sup>2</sup> In a review of population based studies, Krug et al. found that 10% to 69% of women

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<sup>1</sup> Heise L, Pitanguy J, Germain A. Violence against Women: The Hidden Health Burden. Washington, DC: World Bank; 1994.

<sup>2</sup> Violence against Women. Geneva, Switzerland: World Health Organization; 1996. WHO document FRH/WHO/96.27

reported that they had experienced physical violence from a male partner.<sup>3</sup> There is growing recognition of the possible linkages between domestic violence and a range of adverse physical, mental, and reproductive health outcomes. Decade has identified a number of individual- and household-level risk factors for domestic violence.<sup>4</sup> Higher socioeconomic status levels and higher levels of education among women have generally been found to be protective factors against women's risk of domestic violence. Several studies have shown that demographic factors such as age, number of children, and extended family residence are inversely associated with risk of domestic violence. In addition, studies from India have shown lower dowry levels to be associated with significantly higher subsequent risks of violence. The possible link between women's status and empowerment and domestic violence has also received considerable attention, with several studies revealing that increased status—as reflected by women's control over resources or membership in group-based savings and credit programs—is associated with significantly lower rates of domestic violence. Other studies, however, have shown that increased women's empowerment may actually exacerbate the risk of violence, at least in the short run. One of the most systematic findings from previous studies relates to the intergenerational transmission of violence, with the witnessing of violence between parents as a child emerging as a strong predictor of subsequent domestic violence. The prominent role of alcohol as well has been highlighted in several studies, the results of which have shown that alcohol consumption played a significant precipitating role in incidents of violence.

An estimated 736 million women become victims of intimate partner violence (IPV), or non-partner sexual violence, or both, at least once in their life.<sup>5</sup> The international community has long acknowledged the severity of the problem. In 1995, the Beijing Declaration and Platform for Action called for the elimination of violence against women.<sup>6</sup> A decade later, in 2015, the UN adopted the 2030 Agenda for Sustainable Development which included a global target to eliminate “all forms of violence against

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<sup>3</sup> Krug EG, Dalhberg LL, Mercy JA, Zwi AB, Lozano R. Sexual violence. In: World Report on Violence and Health. Geneva, Switzerland: World Health Organization; 2002:149–181

Moore M. Reproductive health and intimate partner violence. *Int Fam Plann Perspect*. 1999;31: 302–306, 312

<sup>4</sup> [https://jir.mewaruniversity.org/wp-content/uploads/2021/03/Vol\\_1\\_issue\\_2\\_Apr\\_June\\_2013/21\\_Domestic%20Violence%20In%20India%20By%20Mr.%20Sudha%20Chaudhary.pdf](https://jir.mewaruniversity.org/wp-content/uploads/2021/03/Vol_1_issue_2_Apr_June_2013/21_Domestic%20Violence%20In%20India%20By%20Mr.%20Sudha%20Chaudhary.pdf)-DOMESTIC VIOLENCE IN INDIA

<sup>5</sup> World Health Organization. “Violence against women prevalence estimates, 2018: global, regional and national prevalence estimates for intimate partner violence against women and global and regional prevalence estimates for non-partner sexual violence against women.”

<sup>6</sup> Declaration, Beijing. “Beijing Declaration and Platform for Action Fourth World Conference on Women.” *Paragraph 112* (1995)

women and girls in public and private spheres.”<sup>7</sup> In 2016, the World Health Assembly Resolution 69.5 called for a global plan of action to strengthen the role of the health system within a national multisector response to address interpersonal violence, particularly against women and young girls.<sup>8</sup> Despite all these mandates, however, 49 countries have yet to adopt a formal policy on domestic violence.<sup>9</sup>

This violence—which has serious short- and long-term consequences on women’s health and well-being<sup>10</sup> disproportionately affects women in low- and lower-middle-income countries. Women aged 15-49 years living in the least developed countries have a 37-percent lifetime prevalence of domestic violence.<sup>11</sup> Among younger women (15-24), the risk is even higher, with one of every four women who have ever been in a relationship facing some form of violence.

Indeed, domestic violence is an all-pervasive public-health concern that women face in various forms across different parts of the world.

Section 498 of the Indian Penal Code, which pertains to cruelty to women, states that domestic violence punishment in India includes imprisonment of up to three years. So, perpetrators of domestic violence can face jail time in India.<sup>12</sup>

## What is domestic violence?

Domestic violence is not restricted to physical force, but also includes sexual assaults and frightening threats that often amount to a pattern of coercive control. It is violence committed by an intimate, that is, a current or former husband or wife, partner or girl/boyfriend. Some definitions of domestic violence include acts from any member of the family, but the definition follows ‘Any violence between current and former partners in an intimate

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<sup>7</sup> Assembly, General. “Sustainable development goals.” *SDGs Transform Our World 2030* (2015).

<sup>8</sup> World Health Organization. “Global plan of action to strengthen the role of the health system within a national multispectral response to address interpersonal violence, in particular against women and girls, and against children.” (2016).

<sup>9</sup> Women, U. N. “[Turning promises into action.](#)” *Gender equality in the 2030* (2018).

<sup>10</sup> World Health Organization. *Violence against women*. No. WHO/FRH/WHD/97.8. World Health Organization, 1997.

<sup>11</sup> World Health Organization. “Devastatingly pervasive: 1 in 3 women globally experience violence.” *New York* (2021).

<sup>12</sup> “Whoever, being the husband or the relative of the husband of a women, subject such women to cruelty shall be punished with imprisonment for a term which may extent to three years and shall also be liable to fine.”

relationship, wherever and whenever the violence occurs. The violence may include physical, sexual, emotional and financial abuse. Domestic violence affects people of all socioeconomic backgrounds and education levels. Anyone can be a victim of domestic violence, regardless of age, race, gender, sexual orientation, faith or class. Victims of domestic abuse may also include a child or other relative, or any other household member. Domestic abuse can be mental, physical, economic or sexual in nature. Incidents are rarely isolated, and usually escalate in frequency and severity. Domestic abuse may culminate in serious physical injury or death.<sup>13</sup>

## Forms of violence

*“Besides using abusive language, my husband hits me with whatever he can lay his hands on. When he is really mad, he flings a stick or whatever is in his hand freely towards me. He does not kick or pull my hair or bang against the wall. But hitting me in the back or slapping is what he does most of the times. In a fit of rage, he even asks me to leave home and go to my parents’ house. But how can I go? I have children and this is my home.”*

In this study, reported violence takes many forms. The most frequently reported types of violence against a woman include abusive language (80 percent), beatings (63 percent), forcing her back to her parental home (52 percent), and threats to throw her out (51 percent). Other types of abuse include refusing to give money to manage the household, protracted criticism, and getting angry with the children. Two-thirds of the women who were abused reported physical violence. Of the women who reported physical violence, the most frequent forms are slaps (100 percent), having objects thrown at them (63 percent), and beatings with a stick (58 percent). Approximately ten percent of the women who were physically abused indicated they required medical attention after getting beaten, yet only 38 percent of these sought treatment. Despite the fact that there were few inquiries specifically on the subject of sexual abuse, 20 percent of women reporting physical violence described violence of a sexual nature. Women in the survey who reported violence experienced an average of three different forms of abuse. In addition, 45 percent of the women reported that their husbands used abusive language in the presence of their children, and 63 percent said that this occurred in front of their parents as well. Many women grew to tolerate abusive language in the presence of their in-laws, but felt physical beatings in

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<sup>13</sup> Domestic Violence Research: What Have We Learned and Where Do We Go From Here? DOI: 10.1177/0886260504267755 J Interpers Violence 2005; 20; 448 Carla Smith Stover

## Violence in live-in-relationship

Whether a “live-in relationship” would amount to a “relationship like marriage” falling within the definition of “domestic relationship” under Section 2(f) of the Protection of Women from Domestic Violence Act, 2005?

Whether the disruption of such a relationship by failure to maintain a woman involved in such a relationship amounts to “domestic violence” within the meaning of Section 3 of the Act?<sup>14</sup>

### Case-

### Indra Sarma vs. V.K.V.Sarma on 26 November, 2013

#### Judgment of the case

The Supreme Court, while affirming the High Court’s order, created an exception to the general rule. The Supreme Court clarified that a woman who begins to live with a man who is already married to someone else, without knowing that he is married, will still be considered to be in a “domestic relationship” under the Protection of Women from Domestic Violence Act, 2005; thus, the man’s failure to maintain her will amount to “domestic violence” within the meaning of the Act and she will be eligible to claim reliefs such as maintenance and compensation.<sup>15</sup>

Some guidelines (not exhaustive) were laid down to determine whether a live-in relationship falls within the category: –

- Duration of period of relationship
- Shared household- Defined in Section 2(s) of the DV Act
- Having/planning children- A very strong indicator
- Pooling of Resources and Financial Arrangements Supporting each other, or any one of them
- Sexual relationship- Not just for pleasure but for an emotional and intimate relationship

<sup>14</sup> <https://indiankanoon.org/docfragment/192421140/?formInput=live%20in%20relationship%20>

<sup>15</sup> <https://www.shadesofknife.in/>- <https://www.shadesofknife.in/indra-sarma-vs-v-k-v-sarma-on-26-november-2013/>

- Socialization in public - Holding out to the public and socializing with friends and families.
- Intention and conduct of the parties- Common intention of the parties as to what their relationship is to be
- Domestic arrangements entrusting the responsibility- Women to run home and do household chores

Since the appellant was aware that the respondent was a married person having two children even before the commencement of the relationship hence the status of the appellant is that of a concubine or mistress and cannot fall under Section 2(f) of Act of 2005 and cannot become within “domestic relationship” and therefore not entitled for any relief on the grounds of domestic violence.

### **D.Velusamy vs. D.Patchaiammal 2010 (4) RCR (Crl) 746 (SC)**

“Relationship in nature of Marriage”

Relationship in the nature of marriage defined and distinguished from live in relationship<sup>16</sup>. Further held only women in relationship in nature of marriage entitled to reliefs under DV Act.

### **Dimple Jatin Khanna @ Dimple ... vs Anita Advani and Anr on 9 April, 2015<sup>17</sup>**

Where petitioner enters into relationship with a man who is already married which fact was in the knowledge of petitioner, cannot be held that the relationship was in the nature of marriage. Such petitioner not entitled to reliefs under DV Act.

### **Victims of domestic violence**

Women form the largest group of victims. However children and elderly people can also be victims of domestic violence. Domestic violence occurs at all levels in society and in all population groups.

Abuse is usually deliberate, but not always. For example, sometimes people can no longer cope with caring for relatives. The situation can then escalate and result in abuse.<sup>18</sup>

<sup>16</sup> <http://cja.gov.in/All%20Judgments/Relationship%20in%20nature%20of%20Marriage.pdf>

<sup>17</sup> <https://indiankanoon.org/doc/12106187/>

<sup>18</sup> <https://www.naaree.com/domestic-violence-helplines-india/>

Domestic violence can happen in any relationship, regardless of ethnic group, income level, religion, education or sexual orientation. Abuse may occur between a married people, or between an unmarried people living together or in a dating relationship. It happens in heterosexual, gay and lesbian relationships.<sup>19</sup>

However, researchers have found that some people are more likely to become the victims of domestic violence. A likely victim:

- Has poor self-image.
- Puts up with abusive behavior.
- Is economically and emotionally dependent on the abuser
- Is uncertain of his or her own needs.
- <sup>20</sup>Has low self-esteem.
- Has unrealistic belief that he or she can change the abuser.
- Feels powerless to stop violence.
- Believes that jealousy is proof of love.

While abuse can happen to anyone, women are by far the most frequent victims and men are the most frequent abusers. The U.S. Department of Justice estimates that 95 percent of the assaults on partners or spouses are committed by men against women.

## Incident of Domestic Violence in India

National Commission for Women is the statutory body generally concerned with advising the government on all policy matters affecting women. It was established in 1992 under the provisions of the Indian Constitution as defined in the 1990 National Commission for Women Act.

Amid a raging pandemic, the number of women reaching out to the National Commission for Women to report violence and harassment within their homes has shown a significant rise in 2021 when compared <sup>21</sup>

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<sup>19</sup> National statistics of domestic violence

<sup>20</sup> <https://www.womenslaw.org/about-abuse/safety-tips/domestic-violence-victims>  
<http://journal.rums.ac.ir/article-1-1639-en.pdf>

<https://www.womenagainstabuse.org/education-resources/learn-about-abuse/types-of-domestic-violence>

<sup>21</sup> Covid-19 and Domestic Violence: an Indirect Path to Social and Economic Crisis Amalesh ASharma

To 2020. In the second year of the pandemic, the commission received 30,865 complaints of which 72.5% (22,379) fall in three categories - to secure their right to live with dignity, protection from domestic violence and matters of harassment of married women including for dowry.<sup>22</sup>

The "right to live with dignity" category includes complaints that involve harassment other than domestic violence. The complaints category was defined this way in 2019 by NCW as more and more women had started approaching the commission alleging harassment at the hands of parents, husbands and in-laws trying to curtail their freedom to take decisions, stopping them from working, and situations that infringed their privacy. This data story gives comprehensive data on the nature of complaints received by NCW during the lockdown.<sup>23</sup>

Stopping Violence<sup>24</sup>

Domestic violence occurs most often among women. To stem the tide of abuse, the National Coalition against Domestic Violence (NCADV) suggests pushing for policy changes and updates. They include:

- Contacting local Congressional representatives and advocating for updates to the federal definition of domestic violence to include dating abuse and stalking.
- Supporting laws and programs that create educational and counseling programs to better identify and prevent domestic violence.
- Increasing funds for programs related to the Violence against Women Act (VAWA).

The NCADV also offers a kind of streamlined Civics 101 course. The course educates people on how to promote antiviolence legislation, gives information about people and organizations to contact, and provides more information.<sup>25</sup>

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Domestic violence in India

<sup>22</sup> Association between domestic violence and unintended pregnancies in India: Findings from the National Family Health Survey-2 data

<sup>23</sup> A Review of Domestic Violence against Women in India during Lockdown-  
[https://www.ijicc.net/images/Vol\\_14/Iss\\_6/PUL015\\_Singh\\_2020\\_R.pdf](https://www.ijicc.net/images/Vol_14/Iss_6/PUL015_Singh_2020_R.pdf)

<sup>24</sup> G.S Score initiative / the culture of battering & the role of meditation in D.V Domestic Violence in India: Effects of Education JOHN SIMISTER AND JUDITH MAKOWIEC

<sup>25</sup> Effects of Individual and Proximate Educational Context on Intimate Partner Violence: A Population-Based Study of Women in India- <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2007.113738>

## Preventions measure

In an effort to prevent violence against women altogether, a different kind and quality of preventive community-oriented response occurs in some settings that seek not just to address individual cases, but to transform social relations at a more systemic level. Although this type of organized response was found to be much less common, there was evidence of this important work throughout the region. State-sponsored public awareness campaigns about dowry, domestic violence, legal rights, and gender justice are taking place at locations in several rural and urban areas. Concentrated outreach efforts, public rallies, legal and health literacy camps, programs directed to young women, and networking between local groups are also being initiated by non-governmental organizations in several locations<sup>26</sup>. The formation of women's self-help collectives in targeted rural communities is also a significant initiative being undertaken by some state and non-governmental organizations who intend this to be both a preventive measure and a reactive response to individual victims of domestic violence. Similarly, holistic efforts to foster widespread community development, and attempts to politically empower certain traditionally marginalized social groups such as dalits, tribal, slum dwellers, rural workers, poor women, sex workers, or women prisoners are examples of this more comprehensive response to violence against women taking place in India.<sup>27</sup>

## Remedy

As a remedial measure, the Parliament of India has passed legislation called, "The Protection of Women from Domestic Violence Act, 2005." Under this Act, several provisions have been made to protect the women from domestic violence. Now every women who have been deprived of their right to life by the act of husband or relatives of the husband, can file a case to the protection officer, police officer or magistrate in the form of 'Domestic Incident Report' and a complaint can also be filed by the relative of the victim and it is considered as a prima facie evidence of the offence. Under this Act, the protection officer is empowered to pass certain orders like protection of the women and order of monetary relief to the victim etc.

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<sup>26</sup> <https://www.government.nl/topics/domestic-violence/what-is-domestic-violence>

<sup>27</sup> Domestic violence in India

## Path Ahead

According to 2000 study by the National Law School of India University, it was observed that there were an extremely low number of convictions in a large sample of domestic violence cases in various Indian courts. The study cites the need for more systematic and thorough record keeping throughout all levels of the Indian court system, as well as the imperative need for more clarity in current legislation that provides a very unclear definition of what domestic violence even is. This allows for cultural biases, social (patriarchal) structures, institutional structures and gender disparities to cloud the nature of many of these cases, and is a major reason why the vast majority of husbands charged with any form of domestic abuse tend to be acquitted<sup>28</sup>.

In view of above said facts, the solution of domestic violence lie, firstly in understanding of mutual and human relation which we inherits from our culture and in particular, respect towards human values and the women in more practical way and secondly, the Indian Parliament must come out with a more stringent laws to protect the rights of women who are victims of violence of any kind occurring within the family, so that it would work as preventive measure to eradicate the crime.

It would not out of place to mention here that an awareness program for protection of women should be launched by the Government because domestic violence in one or another way, affects the national productivity and lesson to protect and respect the women should be given from basic education level as men and women both participate equally in national growth. Finally, last but not least, prosecution shortcoming in handling of domestic violence case must be addressed and conviction rate should be increased in cases like domestic violence to create fear in the mind of violator or abuser.

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<sup>28</sup> Elizabeth, V. (2000). Patterns and Trends of Domestic Violence in India: An Examination of Court Records, National Law School of India University, 2000.  
PTI(2005). Two-third married Indian women victims of domestic violence: UN, October 13,2005 . See 2. National Family Health Survey. (NFHS-3)( 2005-06). Domestic Violence, Full report available at <http://www.measuredhs.com/pubs/pdf/FRIND3/15Chapter15.pdf> 3. Ganley, A.L., and Schecter, S. (1996). Domestic violence: A national curriculum for children's protective services. San Francisco: Family Violence Prevention Fund.) 4. National Centre for victims of Crime. "Domestic Violence"

## Case analysis

### Pragya Tyagi vs. Kamlesh Devi, 2022

#### Court analysis

Domestic violence victims can enforce her right to reside in 'Shared Household' Even if she has not actually lived there.

#### Supreme Court

It is held that there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed vis-à-vis allegation of domestic violence. However, it is not necessary that the time of filing of an application by an aggrieved person, the domestic relationship should be subsisting. In other words, even if an aggrieved person is not in a domestic relationship with the respondent in a shared household at the time of filing of an application under Section 12 of Domestic Violence Act but has at any point of time lived so or had the right to live and has been subjected to domestic violence or is later subjected to domestic violence on account of the domestic relationship, is entitled to file an application under Section 12 of the Domestic Violence Act.

### Hiralal P. Harsora and Ors. V. Kusum Narottamdas Harsora and Ors.<sup>29</sup>

The judgment given by the Hon'ble Supreme Court was, that it set aside the impugned judgment given by The Bombay High Court and the declaration was made that the words "adult male" given in the definition of "Respondent" in the Section 2(q) of the Act shall be struck down and would be deleted from henceforth. The Ratio behind the same was that the words were in violation of Article 14 of "The Constitution of India, 1949". It was also made clear that the Section 2(q) of "The Protection of Women from Domestic Violence Act, 2005" shall not be rendered invalid, and only the said words i.e. "Adult male" are being struck down, the rest of the sub section remains as it is and is valid.<sup>30</sup>

<sup>29</sup> <https://blog.ipleaders.in/hiralal-p-harsora-ors-v-kusum-narottamdas-harsora-ors/>

<sup>30</sup> <https://indiankanoon.org/doc/114237665/>

**S.R Batra & Another vs. Smt Taruna Batra 2006**

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The claim for alternative accommodation can be only made against husband and not against in law or other relatives.

Supreme Court held that the wife is only entitled to claim a right to residence in a shared household, and a 'shared household' would only mean the house belonging to or taken on rent by the husband or the house which belongs to the joint family of which the husband is a member. The property in question in the present case neither belongs to the husband nor member. It is the exclusive property of appellant No. 2, mother of the husband. Hence, it cannot be called 'share household'.

**Early Prevention is Key**

According to the American Journal of Preventive Medicine, early prevention lowers the likelihood dating violence.

The Centers for Disease Control and Prevention developed the Dating Matters program, which describes the characteristics of healthy and unhealthy teen relationships, shares statistics and examples of dating violence as well as red flags, and shows how to foster good connections and private way teens date

And experience relationships differ from adults. More teens experience abuse via or over social media, typically over posts and passwords.

Abusers resort to messenger and locator apps to monitor their partners' whereabouts. Because some people — especially young people — practically live online, it's all the harder to avoid an abusive partner if they constantly message or post about the victim.

Addressing why some kids stay in bad relationships is worth noting too. Some rationalize bad behaviors as signs of love; others stick around because their partner boosts their social status.

Signs of abuse include:

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<sup>31</sup> <https://www.juscorpus.com/sr-batra-v-taruna-batra/>

- Isolation
- Unexplained or unusual injuries
- A lack of interest in once-enjoyed activities
- Excuses for a partner's bad behavior

## Conclusion

Domestic violence has far-reaching implications on the physical, mental, and psychological wellbeing of victims. Therefore, eradicating it from society is of utmost importance. As mentioned earlier, addressing the issue requires an in-depth evaluation of the role played by social factors such as gender, gender roles, and hierarchy in society. The most efficacious solution to end domestic violence is to expose the perpetrators to the mental and physical pain that their victims encounter. Thus, traumatic experience simulation is a method that should be implemented in order to contribute in domestic violence awareness and significantly decrease the number of its victims through active and fruitful work with abusers. Traumatic experience simulation will be an effective method because of its strengths that include repetitive practice, ability to provide feedback, and the ability to present different life scenarios that possess valuable lessons. The main goal of the method is to change the attitudes of the abusers toward their partners as well as develop a new understanding of domestic violence with regard to its negative effects on victims, families, and the society. Domestic violence should not become more common, and it is the duty of every person in the society to make the efforts in order to prevent its spread. Its effects on families and the society are severe and, therefore, eradicating it is necessary. I strongly believe that this method will show positive results once it is tested thoroughly.

*“You are not what were done to you. Your identity is not found in the hurt or harm that someone else caused. At your core there is a pure and powerful light which they could not put out.”*