

# DOMESTIC VIOLENCE AGAINST MEN IN INDIA

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## CHAPTER I - INTRODUCTION

When most people hear the term "domestic violence," they often assume that a man is the aggressor. While this may be true in many of the reported cases, domestic violence against men is more common than thought and can pose a serious threat to its victims. Unfortunately, men are generally not protected just as women are under most domestic violence laws in India. Therefore, the paper concentrates on bringing changes in the existing system, in the light of following the principles of equality.

On thinking, it is clearly understood that the patriarchal system plays a vital role in positioning men as victims. It comes up with the obvious assumption that it is impossible for men to a victim. Masculinity and dominance by nature of law does not fabricate men to be the victims of such abuse. This is better understood in a society like India where men are not encouraged on opening up their emotions. If done so, they are categorized to be weak. Hence for this reason, these victims blame themselves for the cause of abuse and do not bring the picture in light.

The main reason behind why male victims of abuse are not treated efficiently is because, while comparing them to the female victims, they differ a lot less in number. On an average, the ratio of male victims to that of females are 1:4. However, this does not grant the law system to be negligent towards such victims. Men constitute a large population in the country for which their grievences and rights have to be considered.

Men do report and allege spousal violence in private, but they hardly report it in public. Violence against men by women is not a new phenomenon, and the author predicts that it will increase with changing power dynamics, economic independence, and control over economy and resources. This change in power dynamics will also affect relationships between men and women, where men are afraid of losing power and women are excited by their empowered

position. In this context, situating “power” within men and women, husband-wife, and family is important in favor of the larger society<sup>1</sup>

## **2. CHAPTER II**

### **2.1 LAW IGNORANT OR PATRIARCHIAL TOWARDS MALE VICTIMS**

Men leveled as the supremacy of a society is left with no option being a victim. While on one hand, if a woman is subjected to such abuse, the consequences of the accused is very brutal and ensured of penalty. The other side of the coin holds men to cry in silence. The question arises if the laws in India is ignorant towards men of the abuse. From the clear framework of law, including the Domestic Violence Act, 2005, all the laws are enforced with the objective of protecting women. Men are left with no laws favouring them. The main problem that arises out of this is when women take unfair advantage of the law. Often, petty issues are blown up and blamed solely on the fault of the man, law does not consider the facts of the case. With women empowerment and positive discrimination for the upliftment of females, whatever is said from the side of a woman is treated to be the final word. This is, evidently and infringement of a man’s legal right to be heard.

#### ***FEMINISM V. PATRIARCHY***

Feminist theorists have expanded the definition of patriarchal society to describe a systemic bias against women. As second-wave feminists examined society during the 1960s, they did observe households headed by women and female leaders. They were, of course, concerned with whether this was uncommon. More significant, however, was the way society perceived women in power as an exception to a collectively held view of women's "role" in society. Rather than saying that individual men oppressed women, most feminists saw that oppression of women came from the underlying bias of a patriarchal society

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<sup>1</sup> Straus, M. A., & Gelles, R. J. (Eds.). (1990). Physical violence in American families. Downloaded by [Anant Kumar] at 00:22 30 March 2012  
New Brunswick, NJ: Transaction Publishers.

## 2.2 IS LAW EFFICIENT ENOUGH IN PROVIDING REMEDIES TO MALE VICTIMS LIKE THAT OF WOMEN VICTIMS

Men charged under the Protection of Women from Domestic Violence Act can be liable to a limiting request, however they don't confront imprisonment. The criminal law that the Supreme Court altered in its ongoing judgment shields a woman from "mental and physical savagery" and badgering for endowment. It calls for prompt capture for those blamed for damaging the law. This isn't the first run through the law has been addressed by the courts. In 2005, a board of the Supreme Court called women's misuse of the provision "legal terrorism." In 2014, the court additionally weakened the convention for captures under the law, expressing that it was putting "confined to bed grandmas and granddads of the spouse" in prison. Since it identifies with provocation over shares, elderly guardians of the spouse additionally regularly confront charges. Many of these rulings also openly accused women of overreacting and disrespecting the sanctity of marriage and family.

Therefore, there is a clear indication that those women who misuse the law are not treated seriously and men who are abused are taken very lightly. For instance, in a case a woman sued the husband on the base of having an illicit relationship with another woman with the background of finding a photograph of the other woman in his bag. The court held this was a petty case and not enough to raise an inferno that the two were having an illicit affair.<sup>2</sup>

The option, left with a developing country like India is to adopt a legislation that will be gender neutral. This means that a man just like a woman should be provided with efficient remedies in case of violence. The meaning of gender neutral laws is that all genders are equal in the eyes of law, either by explicitly mentioning that every gender in law or by making the language of the law gender neutral. For example- under the POSCO Act, 2012 a child has been defined as "any person below the age of 18 years" in which there is no specification of gender and the word 'any' denotes the equality to all genders<sup>3</sup>

In the case of India, it can be scarcely discovered if any enactment means to secure men against domestic violence. It is a grave social issue abusing human rights. Numerous countries have laws to shield both genders from abuse yet in India it appears that the

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<sup>2</sup> Prabir Chatterjee v Shila 2004 (2) HLR 202

<sup>3</sup> Sonakshi Awasthi, Is India ready for gender-neutral laws? The Indian Express, (October 18, 2017, 11:00AM), <http://indianexpress.com/article/india/is-india-ready-for-gender-neutral-laws4895122/>

government has not tended to the issue appropriately. These men are helpless before their harsh spouses or other female relative, confronting physical, mental and enthusiastic pain. Such savagery likewise prompts demise at times. Men who are forced to bear this badgering stay numb out of dread that they will be caught in a false endowment case or isolated from their children.

In 2016, the Supreme Court Justices Kurian Joseph and Rohinton F Nariman struck down the words, “adult male person” from Sec. 2(q) of the Domestic Violence Act, 2016. It was held that, “We, therefore, strike down the words ‘adult male’ before the word ‘person’ in Section 2(q), as these words discriminate between persons similarly situated, and far from being in tune with, are contrary to the object sought to be achieved by the 2005 Act,” This will include women as offenders from then onwards<sup>4</sup>

In 2017, it was clear from a judgment in the court of Karnataka in case of Mohammed Zakir. The Court held, “If the said sub-section is read after deleting the expression ‘adult male’, it would appear that any person, whether male or female, aggrieved and alleging violation of the provisions of the Act could invoke the provisions under the Act. In that view of the matter, the petitioner’s complaint could not have been trashed on the ground that the Act does not contemplate provision for men and it could only be in respect of women.

## **CHAPTER III**

### **3. AN ANALYSIS OF DOMESTIC VIOLENCE**

Domestic violence is not physical violence alone. It includes mental, sexual and other elements too.

#### **3.1 CRUELTY TOWARDS HUSBAND**

In India, marriage is the joining between man and woman to get wellbeing in the general public and marriage is only multiplication and minding of the youngster. As indicated by Westmark,

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<sup>4</sup> Ashok KM, SC Strikes Down Words ‘Adult Male’ From The Definition Of “Respondent” Under Section 2(Q) Of DV Act; Relief Possible Against Minors, Women, Live Law (March 13, 2018, 1:44AM), <http://www.livelaw.in/sc-strikes-words-adult-male-definition-respondent-section-2qdv-act-relief-possible-minors-women/>

Marriage has been regularly similar to as an organization made independent from anyone else. As there is increment in number of relational unions consistently, in the meantime breakdown of relational unions in the general public has additionally been believed to build whether by blame of spouse or wife. Despite the fact that bodies of evidence recorded by spouse against husband and in-laws under Domestic Violence Act and 498-An of IPC to assert support and separation however all dissensions are not documented bona-fidely. Flexibilities of instruction, openings for work, monetary freedom and social demeanour have gotten gigantic change the status of women. The adjust of scale has tilted conversely for the women, unfortunately.

Cruelty is an inhuman treatment and it is a demonstration that makes mental sufferings and imperils the life and strength of the other. It might be as physical and mental by the demonstration both of the spouse or the wife. Despite the fact that the women have dependably been subjected to be tormented and irritated by the spouse and relatives, in reality saying this won't be legitimate as instances of torment and badgering against the husband by the wife is expanding step by step. Brutality is the fundamental ground to look for separate as characterized under 'Sec 13(1) of 'The Hindu Marriage Act, 1955' and party who files a case must prove that living between the husband and wife is practically impossible.

There are numerous provisions made relevant for the assurance of the women, which has got acknowledgment from the supreme law, or the constitution. The one-sided nature of these laws is apparent from that reality that not at all like all laws in India the weight to prove blamelessness lies on the denounced and this implies when the dissension is made by the abused individual/spouse, the outcome is that the husband and his family might be instantly captured and will be considered as blamed in the eyes for law. As stated in the Indian Penal Code , the spouse and her parental family can charge any or the greater part of the husband's group of physical or mental savagery yet validity of the case must be investigated by the court as this segment is cognizable, non-compoundable and non-bailable in nature.

What adds up to mercilessness against spouse? Despite the fact that it is the obligation of the court to choose the case in view of realities and conditions however what adds up to remorselessness is a vital angle as abuse of Laws by the spouse against husband in the public eye is developing step by step and most obviously some Indian Urban taught ladies have turned the tables and are utilizing these laws as weapon to release individual grudge on their husbands

and guiltless relatives and there are sure grounds on which brutality against husband can be demonstrated:-

- Misuse of Dowry Laws, Domestic Violence Act and 'Sec: 498-A ' of IPC by spouse against husband and in-laws of husband through hotel false protestations.
- Desertion by spouse which implies wife purposely expecting for partition and to convey living together for all time to an end.
- Adultery by the spouse implies wife having sexual association with some other individual amid the lifetime of marriage and there must be strict law to rebuff wife who has submitted infidelity.
- Wife quitting for second marriage without applying for the separation procedures.
- Threatening to leave spouse's home and risk to confer suicide by the wife.
- Cruel conduct of spouse where wife tearing the shirt of the husband, declining to cook sustenance legitimately or on time and breaking of the mangalsutra within the sight of husband's relatives.
- Abusing and blaming spouse by route for offending in nearness of in-laws and at times wife manhandling husband before office staff individuals.
- Wife declining to have intercourse with spouse with no adequate reasons which can be considered as a ground of pitilessness and husband can record a separation appeal.

### **3.2 SEXUALITY AS A TOOL FOR DOMESTICE VIOLENCE AGAINST MEN**

Impotency can be compared to a caged husband who is under the control of his wife. Due to social prejudices, the husband may not bring the problem in public. This gives the wife an opportunity to take control over and abuse him on the basis of his sexuality. Under the Hindu Marriage Act, the law body in India indeed recognizes impotency to be a ground for divorce. This is often mislead and outcomes in domestic violence towards the men with such a problem.

There are also situations where women take the defense of fake impotency, as a consequence abuses the man, and ultimately sues for divorce<sup>5</sup>

#### **CHAPTER IV- CONCLUSION**

The word violence is generally referred in terms of cognitive interpretation. It basically relates to power dynamics: Male violence is basically the interpretation of analysis of power: “who is more powerful?” It can be in terms of economic empowerment at the level of addressing insecurity, who feels more insecure of leaving whom. For example, if a male earns less than a female and his wife starts analyzing the situation and feels more empowered and powerful, the male develops insecurity and can even be a victim of violence thereafter. This is true even for work: if the workplace is headed by active, socially strong women in status, physical robustness, mental strength, and psychological power. There are no absolute principles for understanding the emotional differences between men and women and the dynamics of violence. However, there are principles that provide interpretation of individual situations. Norm violation theory by DeRidder and Tripathi (1992) is one such principle that can be used to explore violent reactions and the underlying factors. Norm violation theory looks at the cycle of conflict-dynamics and predicts whether it is going to follow the cycle of escalation or de-escalation. The precipitating factor is taken as a norm violation. It is in this context that norm-violation theory can be used to understand how a certain action on the part of the male/female may be seen as malevolent and lead to a violent (retributive or tit-for-tat) reaction by the partner<sup>6</sup>.

Society and its power relations, norms, and values are changing. Men have started sharing their agony, torture, and harassment by women/spouses. It is time to recognize their problem as a social and public health issue and develop appropriate strategies and interventions. They are no longer stronger than women. They need help in crisis and family violence: Particularly violence by spouse is a crisis. Male victims of violence can be saved/helped through appropriate intervention such as recognition of violence against men by women as a public

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<sup>5</sup> Shanti devi v. Raghav Prakash, 11 (19885) DMC 85: AIR 1986 Raj 13 : 1985 Mar LJ 197 : 1981 Raj LR 121 :1981 (1) DMC 25 (Del) : (1985) 2 Hindu LR 301.

<sup>6</sup> Fiebert, M. S. (2007). References examining assaults by women on their spouses or male partners: An annotated bibliography. Retrieved from <http://www.csulb.edu/mfiebert/assault.htm>

health issue; helpline for the male victims of violence; and education, awareness, and legal safeguards<sup>7</sup>.



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<sup>7</sup>Dobash, R. P., & Dobash, R. E. (2004). Women's violence to men in intimate relationships: Working on a puzzle. *British Journal of Criminology*, 44(3), 324–349. doi: 10.1093/bjc/azh026