



DOMESTIC VIOLENCE AGAINST MEN IN INDIA

By *Sayantika Sengupta and Shivansh Bhatt*
From *Symbiosis Law School, Hyderabad*

Abstract

Domestic violence, being an intrinsic part of our society, can be best described as the violent or the aggressive behavior within the home, typically involving the marital spouses. This form of violence is mostly faced by the woman in such a relationship. To prevent atrocities against women at national and international level, efforts are being made so that such crimes could be controlled. However, spousal abuse is a serious problem that is not just faced by women. Doubt domestic violence directed against women is a serious and big problem, but the domestic violence against men is also increasing gradually in India. The supremacy of men in the society makes one believe that they are not vulnerable to domestic violence. Battering of men by their spouse and family members has become an important issue and is another form of domestic violence under the sense of judiciary. In comparison to violence against women, violence against men in India is less frequent but it has already taken a dreaded shape in most of the countries of the world including India.

While news of dowry-related harassment and crimes against women are reported extensively in the media, there are a growing number of men who are at the receiving end

of harassment, and face physical and psychological abuse at the hands of their wives. Moreover the humiliation and shame of this act going public forces them to keep quiet. In the recent years, there has been a spurt in the number of men who have been physically abused by their wives. Although the trauma may be the same, the methods of inflicting abuse may vary.

The researchers, in this paper, have mainly dealt with three prominent questions. First-What are the dynamics related to violence against men? Second - Why such cases are not usually complained? and third - What are the laws in the country that deals with such an issue?

In order to reach a definite answer to the above mentioned questions, the researchers have primarily given a brief introduction to the concept which involves the emergence of such a situation. Next the topic of violence against men in nexus to its consequences has been discussed. The paper also discusses the need for gender neutral laws especially in a country like India. Next the biasness of the Domestic Violence Act towards the women has been discussed. The judicial perspective regarding the same has also been inculcated to heighten the essence of the research paper. The researchers have been finally provided conclusion to the paper and provided suitable recommendations accordingly.

Keywords: Domestic, Violence, men, India

Introduction



"A gender-equal society would be one where the word 'gender' does not exist: where everyone can be themselves."

-Gloria Steinem

Domestic violence is today's reality in many parts of the world. It has been recognised across the world as a form of violence that affects a person's life in every way – physically, mentally, emotionally and psychologically – and is a violation of basic human rights. Various countries have identified it as a serious threat to a person's overall wellbeing thus providing relief in various forms.¹ There is no such physical act which characterizes domestic violence but it encompasses behaviours of abusing, false imprisonment, sexual abuse, etc. The literal meaning of the word "Domestic Violence" is any violent or aggressive behaviour within the home, typically involving the violent abuse of a spouse or partner. It arises when one intimate partner uses physical force, violence, coercion, threat, intimidation, isolation or emotional, sexual or economic abuse to maintain power and control over the other intimate person. However the word is made synonymous with violence against women. The entire focus of domestic violence is on women as it is perceived notion that definitely men will be the perpetrator and women will be victim but the domestic violence against men is also increasing gradually in India. However, for both men and women, domestic violence is among the most underreported crimes worldwide.²

The supremacy of men in the society makes everyone believe that they are not vulnerable to domestic violence. Domestic violence against men deals with domestic violence experienced by men or boys in an intimate relationship such as marriage, cohabitation, dating, or within a family. Domestic violence against men by their spouse and family members has become an important issue in today's generation and became an integral form of domestic violence under the judiciary. In comparison to violence against women, violence against men in India is less frequent and less reported but it has already taken a drastic shape/change in most of the countries of the world including India. As with domestic violence against women, violence against men may constitute a crime, but laws vary between jurisdictions

The paper focuses on the phenomenon of domestic violence against men with the women as perpetrator with a view towards gender balancing. The paper shows the need for a law of gender equality. Researchers have demonstrated a degree of socio-cultural acceptance of aggression by women against men and a general condemnation of aggression by men against women, due to male violence causing significantly more fear and severe injuries than female violence. This can lead to men not considering themselves as victims, and/or not realizing the violence they are experiencing is a crime.

Research Methodology

The methodology adopted is largely analytical and descriptive. Focus has been placed largely on secondary sources like books and articles. The lectures and classroom discussion have been rich with

¹ Scribd.com article on Misuse-of-Domestic-Violence-Act-A Study

² US Today e-report (Indian...Men...Protection-Domestic-Violence-57169900)



valuable pointers and gave direction to the research. The sources of this paper are cases on this subject. The method used in making the paper and the information which has been gathered are from various sources such as The Bare Act, legal sites which deal with case laws and also newspaper articles.

(A) Chapterization

This paper has been divided into 7 chapters. The first chapter covers the introduction to the concept which involves the emergence of such a situation. The second chapter of the paper deals with dynamics related to violence on men. The next chapter states the consequences of violence against men. The following chapter discusses why such cases are not reported. The next chapter discusses the need for gender neutral laws which is followed by the next chapter which deals with the judicial perspectives. The next chapter highlights the biasness of the Domestic Violence Act, 2005. The final chapter provides with conclusion and suitable recommendations.

(B) Research Problems

1. What are the dynamics related to violence against men?
2. Why such cases are not usually complained?
3. What are the laws in the country that deals with such an issue?

(C) Mode of Citation

Uniform mode of citation is used throughout the project.

Dynamics related to violence against men

The word “violence” is generally referred in the terms of cognitive interpretations. Male violence can be in terms of economic empowerment, superiority or dominance. Violence against men is just not restricted to their household. Men face violence in professional field also. However, there are no absolute principles for understanding the emotional differences between men and women and the dynamics of violence. Nevertheless, there are principles that provide interpretation of individual situations. *Norm violation* theory³ 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 regarded as malevolent which lead to a violent or retributive reaction by the partner. Male victims of domestic violence deserve the same recognition, sympathy, support, and services as do female victims.

Domestic violence mostly leaves the victim depressed and anxious irrespective of gender. Consequently, male victims should be listened to and cared for. Male victims must be prepared to speak out their situations because men are traditionally thought to be physically stronger than women, they might be less likely to talk about or report incidents of domestic violence in their heterosexual relationships due to embarrassment or fear. Men should

³ De Ridder and Tripathi (1992)



start telling someone about the abuse and not hesitate about the same, whether it's a parents, friend, relative, health care provider or other close contact. At first, it might be difficult due to the male ego, but in the end, it is likely to bring about relief and the much-needed support.

Consequences of violence against men

Domestic Violence has been identified across the world as a form of violence that affects a person's life in every way – physically, mentally, emotionally and psychologically. It is a violation of basic human and legal rights. The consequence and effect of this violence against men in India is largely emotional and psychological in nature. The physical harassment resulting from domestic violence, also affects their lives and productivity but it is still more inclined towards the emotional problems which men face in India. It is largely because many such cases go unreported or men feel hesitated to report, as compared to the matters of physical assault of women.

Voice has been raised against the freedom and equality of women but we forget that men can be victim of the same unfortunately; Indian Legislation has failed to accept that men can also be victims of sexual violence and physical assault. The very Section 375 of IPC dealing with rape and legal provisions against it mentions no rapes or sexual assaults against men in fact it states that if rape has been committed then women is the victim and men is the perpetrator. Indian Penal code Act (1860) Sections 354 A, 354 B, 354 C and 354 D, new amendments in (2013) deal with sexual harassment, disrobing, stalking and

voyeurism accept women as victim and men as the executor. There is only one IPC Section 377, crippled in itself that records the sexual violence against men but it incorporates only penile sexual intercourse; non-penile abuse victims are not served by this law. It won't be wrong to say that these sections work as the mirror to the way of thinking which the society carries. The situation of crime and abuse against men is in need of urgent attention and calling for serious consideration. The figures recorded for crime against men are disturbing, not because they are huge figures but because of the number of cases where men as victims, go unreported. Men in India are facing all kinds of abuse and "men don't cry" is a mentality that's needed to die⁴.

Save Indian Family Foundation, an organization is working on men's rights, and according to its reports when men tries to talk about their problems, tortures, struggles, and harassment of marriage and family, no one is ready to listen; instead they laugh at him. Many men feel ashamed to talk when they are beaten at home by their wives and her family. There are many laws to protect women against crime but there is no law to protect husband and his family members against the crime of women (wife). The report further states that like women, men also worry for leaving their spouses; they fear their children will be left unsafe without them. Taking care of children is always challenging for fathers, as it is the prospect of raising them alone⁵.

⁴ <http://www.indianyouth.net/crime-against-men-in-india/>

⁵ <http://www.indianyouth.net/crime-against-men-in-india/>



According to psychologists it's mostly mental torture for men; but Indian judiciary has no provisions what -so-ever to consider domestic violence of women against men. When the suffering people are asked about this menace, many of them refuse to comment, as they feel hesitation and insult to talk on such matters.⁶

Resistance from reporting such issues

Most of the cases of domestic violence go unreported so it is difficult to get exact number on domestic violence and it is even more difficult to figure out that how many men are suffering from abuse or domestic violence. The main reason that most of the violence against the men are remain to be unreported is the traditional gender roles in society and the stigma of the perceived weakness to admit or confess of falling victim to a woman.

Although some research suggest that the domestic violence committed by man and women are equal in numbers but the reported victims are mainly female. The reason for the difference in reported victims are many. The most crucial one is fear of police. Due to the present norms and stigma of the society, men face the fear of getting arrested for offences they have not even committed. The second reason for the same is the word man is itself a gender-biased which denotes power, full of masculine behaviour, appearances and control of emotions. It is a common perception that distinguishes male and female in terms of

expression of their feelings. It could be harder as well as a matter of shame for men to disclose their suffering in a male-dominated society. It can be perceived as a "feminine behaviour" in the society⁷. The third reason is the inadequacy of legal provisions to deal with such matters. Proper enactment of law for male as there are for female under IPC and CrPC, counselling services, institutional support, family support, help lines, etc. are some of the factors that needs immediate focus and attention. As long as the common misconception that men are always the abuser and women are always the victim prevails in our society, reporting about domestic violence in case of men will always be an issue.

The need for gender neutral laws

The POSCO Act, 2012 defines a child as "any person below the age of 18 years" in the there is no specification of gender and the word 'any' denotes the equality to all genders.⁸ The Justice Verma Committee Report⁹ of 2012 has underlined the need of India to recognize different sexual orientations and recommended inclusion of transgender along with other genders, i.e. men and women while drafting gender-neutral laws. "However each of these requires to be codified distinctly and separately as victims and not clubbed together in a gender-neutral term, 'person'

⁶ <https://ipc498a.files.wordpress.com/2007/10/domestic-violence-against-men.pdf>

⁷ <http://jurip.org/wp-content/uploads/2018/04/Pratibha-Ahirwar.pdf>

⁸ http://wcdsc.tg.nic.in/InformationAbout/PPTs/8.ICPS-POCSO_Act.pdf

⁹ Justice Verma Committee Report, January 23, 2013.



”¹⁰. The female dominated laws can be terminated only if; men as well as women in India understand equality. It’s possible only when their voice which will sort out this issue. It’s true that women were sexually harassed, it’s true that they were man-handled, subjected to dowry, etc¹¹. But in today’s scenario the men also face sexual harassment and domestic violence by their spouse, so the laws need to be changed as the society is progressing. *“Crime has no gender and neither should our laws. Women commit crime for the same reasons that men do. The law does not and should not distinguish between criminals and every person who has committed an offence is liable to punishment under the Code.”*¹² Therefore, the laws should be gender neutral in the case of Domestic Violence in India as Women rights has been protected in Protection of Women from Domestic Violence Act, 2005. Similarly, there should be law were men rights should be protected under the ambit of law.

Judicial Perspectives

If we talk about India, we can hardly find any legislation that aims to protect men against domestic violence. It is a grave social issue violating the human rights. Many countries have laws to protect both men and women from domestic violence but in India it seems that the government has not addressed the issue properly. These men are at the mercy of their abusive wives or other female relative, facing physical, mental and

emotional distress. Such violence also leads to death in some cases. Men who are at the receiving end of this harassment remain numb out of fear that they will be trapped in a false dowry case or separated 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 onwards¹³.

In 2017, it was clear from a judgment in the court of Karnataka in case of *Mohd. Zakir v. Shabana & Ors.*¹⁴ The Court held, “*If the said subsection 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.*”¹⁵

¹⁰ Vrinda Grover, a lawyer and a human right activist

¹¹ Harish V Nair, Parliament can make law on rape gender-neutral, says Supreme Court

¹² Monalisa Das, Should Rape Laws in India be Gender Neutral? Experts weigh in

¹³ 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

¹⁴ CrI. P 2351 of 2018

¹⁵ Live Law News Network, Husband Can Initiate Proceedings Under DV Act Against Wife, Her Relatives: Karnataka HC, Live Law



On 2 July 2014, the Supreme Court said that the law is being used by some women to harass their husband and in-laws. The court prohibited the police from making arrests on the mere basis of a complaint. The court asked the police to follow Section 41 of the Code of Criminal Procedure, 1973, which provides a 9-point checklist which must be used to decide the need for an arrest.¹⁶ The court also said that a magistrate must decide whether an arrested accused is needed to be kept under further detention. The decision was in response to a Special Leave Petition (SPL) filed by one Arnesh Kumar challenging his arrest and of his family under this law. The decision was welcomed by men's right activists but was criticized by women rights activists. However, due to lack of communication to police stations, the guidelines of Supreme Court of India are still not getting followed. Domestic violence against men in India is not recognized by the law. The general perception is that men cannot be victims of violence. This helps women get away scot-free¹⁷. So, presently there is no law regarding domestic violence against men in India, and the time has come to make gender neutral laws.

The Domestic Violence Act, 2005

Domestic violence can be defined under four broad categories- Physical Abuse, Sexual Abuse, Verbal and Emotional Abuse and Economic Abuse. In this Act, physical abuse means – causing bodily harm, danger to life, limb or health or development of the

aggrieved person. This includes assault, criminal intimidation and criminal force. The definition of sexual abuse explains – “conduct of a sexual nature that abuse, humiliates, degrades or otherwise violates the dignity of a woman”. This definition clearly denies justice to men and indirectly says that abuse, humiliation or violation of dignity cannot happen to a man. This definition includes – “Insult, ridicule, humiliation, name calling or specially insult for not having a child” or “repeated threat to cause physical pain to any person to whom the aggrieved person is related”. The definition of economic abuse under this law is “deprivation of all or any economic or financial resource to which the aggrieved person is entitled under any law or custom”. On the one hand if the husband earns and he doesn't pay to his wife it is domestic violence. But if the wife earns and she does not pay to the husband it is not regarded the same majority of women do not have to bear the responsibility of household affair¹⁸. This act is purely in favour of women. It provides protection to wives and female live-in partners from domestic violence carried out by husbands and male live-in partners or their relatives. In this way the Domestic Violence Act should be made gender neutral.

According to family counselling centres in Jabalpur, the share of harassed husbands was 70 percent among complainants as per data recorded between 2013 and 2015. About 4,500 husbands are missing from family court records in the region. A local

¹⁶ *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273

¹⁷ Dhawani Desai, When Husband are Victim of Domestic Violence, Times of India, May 10,2017

¹⁸ <http://themalefactor.com/2014/02/18/almost-every-indian-husband-is-subjected-to-domestic-violence/>



stops the police from going after men who have left marriage and become sadhus¹⁹.

It is important to have a look on the results of Suicide, Depression and Divorce in the Indian society. A survey conducted by the National Family Health Survey which throws light on unprovoked violence against men by women is evidence in this reference. Notwithstanding the fact that double the numbers of men commit suicide as compared to women. It should not be a surprise to go for a law to protect men as such a law for women already exists. In fact, it would be preposterous in this age of gender equality, not to have such a law. Such a law to protect men from domestic violence would act as preventive relief to millions of those men who feel victimized and left out. It would also provide them with a legal platform to come forward and share their pain and get some semblance of relief. The Supreme Court has said in a recent order that IPC Section 498A has “dubious place of pride amongst the provisions that are used as a weapon rather than a shield by disgruntled wives.”²⁰

The government is now planning to make IPC Section 498A compoundable, which means the couple would have privilege of reconciliation and settlement, if the court allows. At present, the offense is non-bailable and non-compoundable. Husbands and in-laws are immediately arrested once a case of dowry harassment or domestic

violence is filed against them. The Ministry of Home Affairs is learnt to have sent a draft note for the Union Cabinet to amend Section 498A of the IPC to the Law Ministry for drawing up a draft bill. Under the amended law, there will be a penalty provision of Rs. 15,000 as against Rs. 1,000 now if the case is found to be false. However, the move won't be as easy as Women and Child Development Minister Maneka Gandhi and women's rights activists have vociferously opposed it. They argue that any dilution of the law will affect millions of women whose cases may be genuine. But the law should not be changed since this is the only law that gives women protection. “*It should stay as it is*,” suggested Maneka Gandhi. Human rights lawyer Sudha Ramalingam says, “*The Supreme Court has already amended the act. Now, husbands and in-laws cannot be arrested immediately after a complaint is registered against them. The police will have to be satisfied first about the need of the arrest. With the proposed amendment, the fear will also go.*”²¹

The fact is that domestic violence is a serious problem and a neutral and unprejudiced law is needed to protect the genuine victims of domestic violence, irrespective of gender. The perpetrators of domestic violence need to be appropriately punished and dealt with. At the same time, protection cannot be withheld from real victims for any reason whatsoever. One can be certain that there is something sinister about a law, when it intimidates and instills fear in innocent people. When a person who

¹⁹

https://en.wikipedia.org/wiki/Domestic_violence_against_men

²⁰ <http://www.ibnlive.com/news/india/domestic-violence-against-men-high-time-government-addressed-the-problem-1004785.html>

²¹ <http://indiatribune.com/section-498a-it-is-unfair-domestic-violence-is-often-a-two-way-affairfeel-harassed-men/>



has not committed any crime, begins to fear punishment under the provisions of a law, it is not a law anymore – it is state of sponsored terrorism²²

Conclusion and recommendations

Determining the rate of intimate partner violence against males can be difficult, as men may be reluctant to report their abuse or seek help. Male victims of violence may face socio-cultural issues pertaining to hegemonic masculinity such as judgement by male peers or having their masculinity questioned. Violence against men is generally less recognized by society than against women. For a man to admit he is the victim of female perpetrated violence necessitates the abandonment of the veneer of machismo which society expects from men, and to admit being submissive to a female partner. For some men, this is an admission they are unwilling, or unable, to make.

Terming this as “legal terrorism”, the judiciary almost always favours the woman. Society is changing with time and so are the values. Men has started facing torture and harassment by women/spouse so the time has come to address their issue and problems as a social issue and develop appropriate strategies and interventions to cure this problem. They are no longer stronger than women now, but women come at the same footing as the men are. This is the reason they need a help in crisis and violence particularly violence by spouse/wife. Male victims of the domestic

violence can be helped through the appropriate intervention such as recognition of violence against men by women; enactment of relevant piece of legislation; helpline for the male victims of violence; and education, awareness, and legal safeguards. Effective legislations to curb domestic violence against men must be put in place and enforced. Law enforcement agents should accept that domestic violence against men is a reality, from which men should be protected. The brutality of a man by his wife should not be seen as a trivial domestic matter. The trials of women who batter or kill their husbands must be given wide publicity in order to serve as deterrence to others who may have such tendencies. There should be greater advocacy to enlighten the public about the existence and reality of the evil of domestic violence against men by government agencies, religious groups and civil rights organizations. This will help in balancing the gender discourse on domestic violence and bring about better families in the Indian society.

²² . <http://www.498a.org/domesticViolence.htm>