

# LEGALFOXES LAW TIMES

## DOMESTIC VIOLENCE AGAINST WOMEN IN INDIA

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*Countries, including India, had adopted the Universal Declaration on Human Rights (1948) and the Convention on the Elimination of All Forms of Discrimination to protect women from any kind of violence. India had taken many human rights in their constitution from these documents like the right to equality, life, Freedom of expression, right to marry; the state cannot discriminate based on sex, etc. Violence is the major problem of the world which affects the human rights of a woman. It also impacts the mental health of women. Domestic violence is one of the significant types of violence. Domestic violence is also called “domestic abuse” or “intimate partner violence.” It means a pattern of behavior in any relationship used to gain or maintain power and control over an intimate partner. It includes domestic abuse, economic abuse, sexual abuse, and physical abuse. Recently the NCW said that domestic violence cases have been increasing since lockdown. In most domestic violence cases, men are the perpetrator, and women are the victims. The Constitution of India and the legislature have given various laws and protections to women; still, they face domestic violence. The concept of domestic violence against women in India, the types of domestic violence face by Indian women, and the consequences of domestic violence on victim’s health. There was paucity of studies evaluating the DV experiences of women over age 50, residing in live-in relationships, same-sex relationships, tribal villages, and of women from the northern regions of India. Additionally, our review highlighted a gap in research evaluating the impact of DV on physical health. We conclude with a research agenda calling for additional qualitative and longitudinal quantitative studies to explore the DV correlates proposed by this quantitative literature to inform the development of a culturally tailored DV scale and prevention strategies.*

### **WOMEN’S PLACE IN SOCIETY**

Women have long held a special place in Indian culture. Man and woman in Hinduism symbolize the divine body's two halves. There is no distinction between them in terms of

superiority or inferiority. Super-women like Gargi, Maitreyi, and Sulabha, who had considerably higher intellectual abilities than regular mortals, are documented in Hindu history. Saraswati, Durga, Laxmi, Kali, and other female deities are venerated throughout the country. According to the Mahabharat, honoring women is equivalent to worshiping the goddess of prosperity. On the other hand, since the period of the Rig Veda, the patriarchal system has persisted. Males created customs and values to benefit men. Women suffer in silence as a result of discrimination. Historically, Indian women have been forced to play dual roles. To guarantee that women efficiently play their traditional responsibilities of nurturing as daughters, mothers, wives, and daughters-in-law, the power of a woman is evoked. The stereotype of "a weak and helpless woman," on the other hand, is promoted to secure complete reliance on the male sex.<sup>1</sup>

Violence against women occurs throughout the life cycle from prebirth, infancy, childhood, adolescence, adulthood to senescence.<sup>2</sup> Most of the data are believed to be unreliable as many cases go unreported. Cases of violence against women are steadily increasing in the country. According to the National Crime Record Bureau, India, there is one dowry death in the country every 78 h, one act of sexual harassment every 59 min, one rape every 34 min, one act of torture every 12 min and almost one in every three married women experienced domestic violence.<sup>3</sup> The India-survey of abuse in the family environment (India-survey of abuse in the family environment) is a population-based, multicenter collaborative initiative on the study of abuse in the family environment. It looked at the link between bad mental health and the study. A total of 9938 women took part (from rural, urban slum, urban non slum areas). During their marriage, 40% of respondents said they had been subjected to any form of violence. Sixty-six percent of those surveyed had self-report questionnaire results suggesting poor mental health.

## DOMESTIC VIOLENCE

The home is often equated with a sanctuary, a place where individuals seek love, safety, security

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<sup>1</sup> Thara R. *A Study of Disabled Women*. Chennai (India): SCARF; 1997-1998. A study of mentally ill disabled women who have been separated/divorced.

<sup>2</sup> Florence: Innocenti Digest, No 6. UNICEF Innocenti Research Center; 2000. United Nations International Children's Emergency Fund (UNICEF). Domestic Violence Against Women and Girls. Magnitude of Problem; pp. 4-7

<sup>3</sup> National Crime Record Bureau, Crime in India, 1997, Ministry of Home Affairs. 2000 <sup>4</sup> Kumar S, Jeyaseelan L, Suresh S, Ahuja RC. Domestic violence and its mental health correlates in Indian women. *Br J Psychiatry*. 2005;187:62-7.

and shelter. For some women, the home is a place that imperils lives and breeds some of the most drastic forms of violence perpetrated against girls and women. Violence is usually perpetrated by males who are, or who have been in positions of trust and intimacy and power e.g. husbands, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives.

## ● TYPES OF DOMESTIC VIOLENCE

### PHYSICAL VIOLENCE

It means that the perpetrator uses force against the victim, which causes injury and hurt. The general definition of physical violence is that of an act or conduct causing bodily pain, harm, or danger to life, limb, or health—for example, slapping, criminal force, and assault, etc. It also includes sleep deprivation, being forced to take drugs or alcohol, and being denied medical care by their husbands. According to World Health Organisation, 38% of females are murdered by their intimate partners. During pregnancy, women are facing a lot of physical violence in India.

### EMOTIONAL ABUSE

According to the Istanbul convention, psychological violence means the intentional conduct of seriously impairing a person's psychological integrity through coercion or threat. It includes threats, criticism, separation, public modification, steady personal devolution, controlling behavior, harassment, verbal abuse, etc. Due to the emotional abuse, women face anxiety, fear, emotional distress, depression, suicidal thoughts, eating disorders, etc.

### SEXUAL ASSUALT

According to the world health organization, it means a sexual act, an attempt to obtain a sexual act, and wanted a sexual comment. It includes sexual/reproductive coercion, marital rape, sexual touching or non-physical events, etc.

## **ECONOMIC ABUSE**

Economic abuse is also called financial abuse. It means one partner has control over the other partner's access to economic resources. During this lockdown, women face economic abuse because they lost their jobs and increased their dependency on the perpetrator's income. It includes exploiting the resources of victims (valuable things, money, pension books, etc.), forcing or pressurizing the family members of the victims to sell the properties, preventing the victims from obtaining education, etc.

## **SEXUAL HARRASHMENT IN WORK PLACE**

A social worker (BD) was gang-raped by a group of the upper class, influential men, because she had tried to stop the practice of child marriage. The accused was acquitted by the trial court. This inspired several women's groups and NGOs to file a petition in the Supreme Court under the collective platform of Vishaka (Vishaka and others vs. State of Rajasthan and others)<sup>4</sup> It is a landmark case as it was the basis for Supreme Court guidelines on sexual harassment at workplace.



## **DOWRY RELATED VIOLENCE**

Dowry-related violence is a serious problem that affects the lives of women and girls. Dowry includes gifts, money, goods, or property given from the bride's family to the groom or in-laws before, during or any time after the marriage. The rate that a family pays in dowry can carry significant symbolic weight where the "greater the dowry results, better the status in the family."<sup>5</sup> However, while providing a large dowry may act as a status symbol, it primarily serves to commodify women, equating their worth as a human being to the value of the dowry. The

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<sup>4</sup> Vishakha and others V. State of Rajasthan and others, AIR 1997 SC 3011 at 3012, 3013. 1997. [Last accessed on 2014 Oct 21].

<sup>5</sup> Sadia Gondal, The Dowry System in India: Problem of Dowry Deaths, 1 J. Indian Stud 37, 37 (2015).

value of the dowry is often linked not only to the family's social status, but also to a woman's physical looks and education. Effectively, dowry dehumanizes women by treating them as chattel. The age-old practice of dowry has persisted and driven many women to suicide<sup>6</sup>. In 50 district court judgments, 1987–1989, Maharashtra, West India, there was dowry related violence. 120 cases of dowry deaths and 20 cases of intentional injury related to dowry were identified. There were intentional injuries, including physical violence (59%), mental torture 28%, molestation by family members and perversity (10%), and starving 3%. The causes of death in the women who died were: Burns 46% and drowning 34%. It is worth noting that the women were very young-88% below 25 years; 58% of them were childless, and 22% had only female children. Harassment by in-laws on issues related to dowry emerged as a risk factor for poor mental health. It is characteristic of the Indian setting. Dowry related violence is on the rise in India. More than 5000 women are killed annually by their husbands and in-laws, who burn them in “accidental” kitchen fires if their ongoing demands for dowry before and after marriage are not met. On an average five women a day are burned, and many more cases go unreported.

## CONSEQUENCES OF DOMESTIC VIOLENCE



In general, victims of repeated violence experience more serious consequences than victims of one-time incidents. Women with a history of intimate partner violence are more likely to display behaviors that lead to further health risks such as substance abuse, alcoholism, and suicide attempts. Intimate partner violence is also associated with a variety of negative health behaviors; studies show that the more severe the violence, the stronger its relationship to negative health behaviors by victims. Some victims may engage in high-risk sexual behaviors such as unprotected sex, decreased condom use, early sexual initiation, choosing unhealthy or multiple sexual partners, or trading sex for food, money, or other items. There is often an increased use of harmful substances and illicit drug use, alcohol abuse, and driving while intoxicated. Victims of intimate partner violence may also engage in unhealthy diet-related behaviors such as smoking, fasting, vomiting, overeating, and abuse of diet pills. They may also overuse health services. Women who experience severe aggression by men, such as not being

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<sup>6</sup> Kumari R. New Delhi (India): Radiant; 1989. Brides are not for Burning: Dowry Victims in India.

allowed to go to work or school or having their lives or their children's lives threatened, are more likely to have been unemployed in the past and be receiving public assistance (CDC, 2015a, 2003)<sup>7</sup>. They may have restricted access to services, strained relationships with healthcare providers and employers, and be isolated from social networks.

## **NATIONAL AND INTERNATIONAL LAWS ON DOMESTIC VIOLENCE**

Domestic violence has been discussed by members of the UN Charter (1945) and the Universal Declaration on human rights (1948). These documents have given various human rights to women and men.

### **INDIA:**

The Constitution of India has given various rights to its citizens like the right to equality under article 14, prohibition of discrimination on the ground of religion, race, caste, sex, or place of birth under article 15, the state shall make special provisions for women and children under article 15(3), right to life under article 21, etc. The legislature enacted the Protection of Women from Domestic Violence Act, 2005, for protecting women from domestic abuse. Domestic abuse includes physical, verbal, emotional, sexual, or economic abuse. The aggrieved party women can file the complaint of domestic violence under this act. The magistrate can pass the protection orders, residence orders, and compensation orders in favor of the victims.

### **USA:**

In 1983, the US had recognized domestic violence as the worst problem among spouses. It affects the rights and mental health of the female section. Congress had passed the violence against women act in 1994. In this act, domestic violence is a national crime. The majority of the crime will be handled by the state and local authorities, and this federal law will help them while taking the domestic violence cases. The court can pass the restitution orders to pay the victim's losses. The accused will pay the cost for medical or psychological care, transportation, physical

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<sup>7</sup> Autry L. (2013). "Kentucky Lawmaker Hopes 2014 Is the Year for Domestic Violence Legislation." WKU Public Radio News. Retrieved April 19, 2016 from <http://wkyufm.org/post/kentucky-lawmaker-hopes-2014-year-domestic-violence-legislation>.

therapy, temporary housing, childcare expenses, attorney fees, expenditure incurred in obtaining a civil protection order, income loss of the victim, and other losses suffered by the victim.

**UK:**

The Parliament passed the Domestic Violence, Crime and Victims Act 2004. It gives legal protection and assistance to the victims of the crime, especially domestic violence. Recently Domestic Abuse Act 2021 was passed by parliament to protect the rights of the victim of domestic violence. According to this act, domestic abuse includes abusive behaviour, physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, psychological abuse, etc.

**AUSTRALIA:**

The legislature passed Crimes (Domestic and Personal Violence) 2007 No 18. This act aims to ensure the safety and protection of all persons facing domestic violence, reduce the crime of domestic violence or abuse, and followed the principles of the Convention on the Elimination of all Forms of Discrimination against Women.

**CONCLUSION**

The constitution and legislature of India have been giving laws and protection to women since independence; still, women are facing domestic violence from husband families. There is a clear indication in India that matrimonial homes are still unsafe for women. The government has started multiple plans like awareness programs, national news channels, radio channels, and social media platforms that solve domestic violence. The results of the pilot study show that domestic violence against women is a significant issue in India. Participants have some idea about the concept of domestic violence but do not know about laws. Government, schools, parents, and society are responsible for women's health which is affected by violence. It is because they didn't do any awareness programs, medical counseling for victims, etc. It's time to recognize that women are the victims of severe kinds of violence. Women who experience domestic violence continue to carry a stigma in countries such as India where significant parts

remain enmeshed in patriarchy. Therefore, women's susceptibility to violence is merely a result of a conflagration of variables that characterize their communities. The imperative is for India to address domestic violence on a clear, targeted policy level: such acts of violence are clear violations of human rights and they have massive impacts on public health, in turn hindering genuine, inclusive, and sustainable development. The lifecycle approach utilised in this present study emphasises that the prevalence of domestic violence affects women's sexual and reproductive health and health outcomes, and has social and economic consequences and costs for families, communities, and societies.

