**DOMESTIC VIOLENCE: AN OVERVIEW**

By**-**

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**MAY 15, 2020**

**ABSTRACT**

Domestic violence can be defined as a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner, it is a global issue reaching across national boundaries as well as socio-economic, cultural, racial and class distinctions. Domestic violence includes any behaviors that frighten, intimidate, terrorize, manipulate, hurt, humiliate, blame, injure or wound someone. This problem is not only widely dispersed geographically, but it incidence is also extensive, making it a typical and accepted behavior. Domestic violence is wide spread, deeply ingrained and has serious impacts on women's health and well-being. Its continued existence is morally indefensible. Its cost to individuals, to health systems and to society is enormous Violence against women in India is an issue rooted in societal norms and economic dependence. Female feticide, domestic violence, sexual harassment and other forms of gender-based violence constitute the reality of most girls' and women's lives in India. Wife battering affects the physical and psychological wellbeing of the abused women and even that of their children. Although female participation in public life is increasing and laws have been amended, India still has a long way to go to make Indian women equal citizens in their own country. In our society, many women are violently treated by their intimate partners while they suffer in silence. In some cases, domestic violence leads to the death of these women. The purpose of the present study is to report the prevalence of various forms of domestic violence against women, to analyze the data on domestic violence against women in India and some suggestive measures this paper discusses the meaning, causes, and types of domestic violence and after-effects of these types of violence on abused women. The management of domestic violence essentially requires combined effort of law enforcement, social welfare and health care services. Although efforts have been made in this direction, the attended cases represent just the tip of the iceberg, as majority of the cases are not reported due to social pressures from family members or social stigma of defamation. Real change in these cases can only be brought about by changing the mindset of society through education and better law enforcement.

**Keywords-Domestic Violence, Society, Socio-economic, Abuse, Suggestive Measures**

**INTRODUCTION**

***'Women are the only exploited group in history to have been idealized into powerlessness' - Karl Marx***

“Bride tortured to death for dowry”, “School going kid succumbs to his injuries after beaten by father”, “A seventy year old man killed over property dispute”, “Harassment of men in Chandigarh…”

The foundations of domestic violence are imbedded deep in evolutionary history of mankind in India. From a feminist standpoint, it could be said that the occurrence of domestic violence against women arises out of the patriarchal setup, the stereotyping of gender roles and the distribution of power, real or perceived, in society. Following such ideology, men are believed to be stronger than women and more powerful. They control women and their lives and as a result of this power play, they may hurt women with impunity. The role of the woman is to accept her ‘fate’ and the violence employed against her meekly. The history of mankind is history of repeated injuries and usurpations towards women, with an objective to establish tyranny over her. Women were always considered vulnerable and in a position to be exploited. Violence has long been accepted as something that happened to women. Family which was perceived as an arena of love, affection, gentleness and center of solidarity and warmth has now become a center of exploitation, and violence ranging from slapping, hitting, homicidal assault by one member of the family on the other, the husband and in-laws harassment for dowry or for another reason, dowry deaths, wife bettering, female child abuse and abuse of elderly female in a family are also included in domestic violence. Domestic Violence is not person specific; its victim can be children, woman, aged, disabled or any other vulnerable group. However, due to the traditional patriarchal system, emotional and economic dependence and inherent biological weakness term out to be the most potent and it is one of the most vicious circles. It takes place behind the closed doors, the very door which are meant to protect women from the hazards of the outside world. It is nothing short of a form of a custodial violence and must be so recognized. Domestic violence must come out of the closet and be addressed.

**DOMESTIC VIOLENCE**

There is no universally accepted definition of violence against women. Some human rights activists prefer a broad-based definition that includes "structural violence" such as poverty and unequal access to health and education. Others have argued for a more limited definition in order not to lose the actual descriptive power of the term. The United Nations Declaration on the Elimination of Violence against Women (1993)[[1]](#footnote-2)(united nations)defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

This definition refers to the gender-based roots of violence, recognizing that "violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men." It broadens the definition of violence by including both the physical and psychological harm done towards women, and it includes acts in both private and public life. The Declaration defines violence against women as encompassing, but not limited to, three areas: violence occurring in the family, within the general community, and violence perpetrated or condoned by the State.

Domestic violence, also known as domestic abuse, spousal abuse, battering, family violence, intimate partner violence(IPV), is defined as a pattern of abusive behaviors by one partner against another in an intimate relationship such as marriage, dating, family, or cohabitation. Domestic violence, so defined, has many forms, including physical aggression or assault (hitting, kicking, biting, shoving, restraining, slapping, throwing objects), or threats thereof; sexual abuse; emotional abuse; controlling or domineering; intimidation; stalking; passive/covert abuse (e.g., neglect); and economic deprivation.[[2]](#footnote-3)(krentz H.B, 2010)

**DOMESTIC VIOLENCE IN AMERICA**

Domestic violence in United States is a form of violence that occurs within a domestic relationship. Although domestic violence often occurs between partners in the context of an intimate relationship, it may also describe other household violence, such as violence against a child, by a child against a parent or violence between siblings in the same household. It is recognized as an important social problem by governmental and non-governmental agencies, and various Violence against Women Acts have been passed by the US Congress in an attempt to stem this tide.

Following are the National Statistics issued by the National Coalition against Domestic Violence (NCADV) On Domestic Violence in USA-

* On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. During one year, this equates to more than 10 million women and men.
* 1 in 4 women and 1 in 9 men experience severe intimate partner physical violence, intimate partner contact sexual violence, and/or intimate partner stalking with impacts such as injury, fearfulness, post-traumatic stress disorder, use of victim services, contraction of sexually transmitted diseases, etc.
	+ 1 in 3 women and 1 in 4 men have experienced some form of physical violence by an intimate partner.This includes a range of behaviors (e.g. slapping, shoving, and pushing) and in some cases might not be considered "domestic violence."
	+ 1 in 7 women and 1 in 25 men have been injured by an intimate partner.
	+ 1 in 10 women have been raped by an intimate partner. Data is unavailable on male victims.
* Intimate partner violence accounts for 15% of all violent crime.
* Women between the ages of 18-24 are most commonly abused by an intimate partner.
* Only 34% of people who are injured by intimate partners receive medical care for their injuries.[[3]](#footnote-4)(National coalation against domestic violence)

**DOMESTIC VIOLENCE IN INDIA**

Domestic violence in India includes any form of violence suffered by a person from biological relative, but typically is the violence suffered by a woman by male members of her family or relatives. According to **a National Family and Health Survey [[4]](#footnote-5)**(national family and health survey)in 2005, total lifetime prevalence of domestic violence was 33.5% and 8.5% for sexual violence among women aged 15–49. The instance of violence was reported to be lowest among Buddhist and Jain women, and highest among Muslim women in India. A 2014 study in **The Lancet reports [[5]](#footnote-6)**(the lanct report) that the reported sexual violence rate in India is among the lowest in the world, the large population of India means that the violence affects 27·5 million over women their lifetime. “The number of cases registered under Domestic Violence

Act, 2005 has gone down over the past three years,” said a March 13, 2015 release from the Press Information Bureau.“As per the provisional data of the **National Crime Records Bureau (NCRB)[[6]](#footnote-7)**(national crime records bureu)which is available up to 2014, the numbers of such cases registered were 531 in 2014, 4204 in 2013 and 16,351 in 2012.” The reality, as Fact Checker found, appears to be the opposite: the limited data available indicate domestic violence might be soaring. Domestic violence in 2013 is low because 17 of 34 states and union territories didn’t release any data. Among them were many large states including Maharashtra, Gujarat and Bihar. When it is reported, as we said, domestic violence appears to be sky-rocketing. Among states that released data, former Andhra Pradesh accounted for the highest number of cases registered under the Domestic Violence Act: 3,758 in 2013, a 75% increase from 2012 (2,150 cases). Kerala comes second with 142 cases in2013, a 21% increase from 2012 (117 cases).**The Hindu[[7]](#footnote-8)** reports that, according to household surveys conducted in India by the **United Nations Office on Drugs and Crime (UNODC)**[[8]](#footnote-9)(UNODC), 10 percent of women in India reported that they have experienced sexual violence by their husbands in their lifetime (The Hindu 19 Dec. 2014). **Reuters[[9]](#footnote-10)**(reuters india) reported in June 2012 that, according to the Health and Programme Development Adviser at Save the Children UK, an international NGO that works in 120 countries to "save children's lives" (Save the Children), despite India's domestic violence Act, "'women and girls continue to be sold as chattels, married off as young as 10, burned alive as a result

of dowry-related disputes and young girls are exploited and abused as domestic slave labor'"

**FORMS OF DOMESTIC VIOLENCE**

**UNICEF[[10]](#footnote-11)**(united nations)Reports on Progress of Nations released jointly by Government of India and **UNICEF** says that more than 60million women, who should have been alive today, are missing. Responsible factors are from feticide to domestic violence to dowry deaths to physical assaults. Discrimination starts even before women are born and continue till they die. It exists in the form of:

***Feticide***– Some new forms of violence have appeared with technological advances as is evident in case of female feticide, reflecting in adverse sex-ratio. Social bias in favor of a male child lead to abortions (out of 8000 cases of abortions following sex-determination tests, 7999 are female fetus, according to a Survey) Sex-ratio is continuously declining allover India except for Kerala. Inefficient and ineffective performance of political, administrative and economic structures and mechanisms failed to stop it.

***Infanticide***– Thousands of newly born baby-girls die with overdoses of opium. They are abandoned or thrown in rivers or dust bins to die. Out of abandoned children 90% are girls. Health hazards - According to official figures, there is 10%higher mortality rate for girls than boys due to mal-nutrition in infancy and childhood. Health Statistics are equally alarming with 80% of them being anemic.[[11]](#footnote-12)

***Physical assaults/Rapes/gang-rapes/molestations***– According to a Report, there are reported cases of one rape every 54 minutes, a molestation every 26 minutes; and an act of cruelty every 33 minutes. National Crime Records Bureau (NCRB) statistic says – every 20 minutes, a woman is raped somewhere in India, not to mention the countless number of cases of molestations or rapes going unreported. Child rape cases have increased by 336% in the last 10 years. Government data shows crimes by juveniles – especially rape and abduction of women – has seen exponential rise in the past decade – from48.7% in 2002 to 66.5% in 2012.

***Economic abuse*-** Economic abuse is a deprivation of the basic need of a person to sustain him in a social set up. It is a form of abuse when one intimate partner has control over the other partner's access to economic resources. Economic abuse may involve preventing a spouse from resource acquisition, limiting the amount of resources to use by the victim, or by exploiting economic resources of the victim. The motive behind preventing a spouse from acquiring resources is to diminish victim's capacity to support him/her, thus forcing him/her to depend on the perpetrator financially, which includes preventing the victim from obtaining education, finding employment maintaining or advancing their careers, and acquiring assets.[[12]](#footnote-13)

***Dowry deaths*** *–* Number of dowry-deaths is quite alarming in the country – a dowry death every one hour forty two minutes. Dowry-related violence is also in increase. Maharashtra, Madhya Pradesh, Andhra Pradesh and Rajasthan are the states with maximum number of reported cases. Many cases remain unreported.

***Victims of materialistic-culture***- Consumerist culture has triggered off increased atrocities, domestic violence and physical assaults on women. Millions of girls live under threat of physical abuse.

***Tolerance of Abuse-*** Since domestic violence tends to be culturally engrained, or derived from culturally-based gender roles, many women are tolerant of the abuse they face. A study on domestic violence in India reflected this sentiment and found that “among the women who reported violence, 29% had never received medical care after domestic violence, and 10% had never told a health worker about being abused. Only 5% of the women reported speaking to the health worker about problems of violence at home.”

**CAUSES OF VIOLENCE**

There are many different theories as to the causes of domestic violence. These include psychological theories that consider personality traits and mental characteristics of the perpetrator, as well as social theories which consider external factors in the perpetrator's environment, such as family structure, stress, social learning. As with many phenomena regarding human experience, no single approach appears to cover all cases. Whilst there are many theories regarding what causes one individual to act violently towards an intimate partner or family member there is also growing concern around apparent intergenerational cycles of domestic violence.

 ***Psychological:***

Psychological theories focus on personality traits and mental characteristics of the offender. Personality traits include sudden bursts of anger, poor impulse control, and poor self-esteem. Various theories suggest that psychopathology and other personality disorders are factors, and that abuse experienced as a child leads some people to be more violent as adults. Correlation has been found between juvenile delinquency and domestic violence in adulthood. Studies have found high incidence of psychopathy among abusers. [[13]](#footnote-14)(hamberger L.K, 1991)Some research suggests that about 80% of men in these domestic violence studies exhibited diagnosable psychopathology and typical personality disorders.[[14]](#footnote-15)(Hart S.D, 1993)

 ***Jealousy:***

Many cases of domestic violence against women occur due to jealousy when one partner is either suspected of being unfaithful or is planning to leave the relationship.[[15]](#footnote-16)(shorey, 2008)

 ***Behavioral:***

Behavioral theories draw on the work of behavior analysts. Applied behavior analysis uses the basic principles of learning theory to change behavior. This program leads to behavior therapy. Often by identifying the antecedents and consequences of violent action, the abusers can be taught self-control.[[16]](#footnote-17)(bohem H, 2008)

***Social Stress:***

Stress may be increased when a person is living in a family situation, with increased pressures. Social stresses, due to inadequate finances or other such problems in a family may further increase tensions.(C.S, 1992)[[17]](#footnote-18)Violence is not always caused by stress, but may be one way that some people respond to stress. Families and couples in poverty may be more likely to experience domestic violence, due to increased stress and conflicts about finances and other aspects.[[18]](#footnote-19)(S.C, 1993)

***Mental Illness:***

Many psychiatric disorders are risk factors for domestic violence, including several personality disorders: all Cluster BPDs, (especially antisocial), paranoid and passive-aggressive. Bipolar disorder, schizophrenia, drug abuse, alcoholism and poor impulse control are also risk factors.(judith, 2001)[[19]](#footnote-20)It is estimated that at least one-third of all abusers have some type of mental illness.

***Marital Conflict Disorder:***

The American Psychiatric Association planning and research committees for the forthcoming DSM-5 (2013) have canvassed a series of new Relational disorders which include Marital Conflict Disorder without Violence or Marital Abuse Disorder (Marital Conflict Disorder with Violence). There is current considerable controversy over whether male-to-female marital violence is best regarded as a reflection of male psychopathology and control or whether there is an empirical base and clinical utility for conceptualizing these patterns as relational."

**LAWS RELATING TO D.V IN INDIA**

***Protection of Women from Domestic Violence Act 2005,[[20]](#footnote-21)***

It was brought into force by the Indian government from 26 October 2006, this act defines domestic violence as an attack against someone by any other person with whom that they are presently, or have been in a domestic relationship. It also provides protection for victims of domestic violence and seeks to punish the perpetrators of such crimes.

The purpose of this Act is to achieve the following objectives:

a) To determine that every act of domestic violence, under any circumstance, in any form or manner, among persons is strictly unlawful

b) To provide adequate protection to victims of domestic violence, under the circumstance where such an act has occurred

c) To serve justice in a cost-effective, timely, and convenient manner to victims of domestic violence

d) To implement adequate programs for victims of domestic violence and to ensure the recovery of such victims in order to resume their health and a normal life

***Section 354-***The Indian Penal Code [[21]](#footnote-22)(dhirajlal, 2005)

**Assault or criminal force to woman with intent to outrage her modesty**.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with impris­onment of either description for a term which may extend to two years, or with fine, or with both.

***Section 313***- The Indian Penal Code[[22]](#footnote-23)

 **Causing miscarriage without woman’s consent**.—Whoever Voluntarily causes a women with a child to miss-carry, without the consent of the woman, whether the woman is quick with child or not, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

***Section 304(B)-*** The Indian Penal Code[[23]](#footnote-24)

(1)Where the death of a women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with any demand for dowry, such death shall be called “Dowry death”, and such husband or relative shall be deemed to have caused her death.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

The Apex court took occasion in ***Shanti v. state of Haryana[[24]](#footnote-25)***(Shanti v. state of haryana, 1991)to explain the ingredients of s. 304(B) ; JAYCHANDRA REDDY J. said “ A careful analysis of section 304(B) shows that a section has following essentials:

1. The death of the women should be caused by burns or bodily injury or otherwise under normal circumstances;

2. Such death should have occurred within seven years of her marriage.[[25]](#footnote-26)(Arbind kumar ambasta, 2002)

3. She must be subjected to cruelty or harassment by her husband or any relative of her husband.

4. Such cruelty or harassment should be for or in connection with demand for dowry.[[26]](#footnote-27)(Bajrang v. state, 1998)

***Section 406*** -The Indian Penal Code[[27]](#footnote-28)(Dhirajlal, The Indian Penal Code, 2005)

**Punishment for criminal breach of trust**.—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

***Section 498 (A)-*** Indian Penal Code[[28]](#footnote-29) –

Whoever, being the husband or the relative of the husband of a women, subjects such women to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

**Explanation-** (a) any willful conduct which is of such a nature as is likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or health of a women; or

(b) Harassment of the women where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security is on account of failure by her or any person related to her to meet such demand.

This section was introduced in the code to combat the menace of dowry deaths, when the question is whether the commission of suicide by a women had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

The Apex court has observed that this section has given a new dimension to the concept of cruelty for the purpose of matrimonial remedies and that the type of conduct described here would be relevant for proving cruelty.[[29]](#footnote-30)(Shobha rani v. madhukar reddy, 1998)

***Section 113A*** The Indian Evidence Act, 1872[[30]](#footnote-31)(Dhirajlal, The law of evidence, 2005)

**Presumption as to abetment of suicide by a married woman**.—When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

***Dowry Prohibition Act 1961***(indiankanoon, n.d.)***[[31]](#footnote-32),*** enacted on May 1, 1961, intended to prevent the giving or receiving of a dowry. Under the Dowry Prohibition Act, dowry includes property, goods, or money given by either party to the marriage, by the parents of either party, or by anyone else in connection with the marriage. The Dowry Prohibition Act applies to persons of all religions in India.

**CONSTITUTIONAL PERSPECTIVE**

The D.V act 2005was passed by the Parliament with recourse to Article 253 of the Constitution. This provision confers on the Parliament the power to make laws in pursuance of international treaties, conventions, etc. The Domestic Violence Act was passed in furtherance of the recommendations of the United Nations Committee on the CEDAW(CEDAW, n.d.)[[32]](#footnote-33). The Act encompasses all the provisions of the Specific Recommendations which form a part of General Recommendation no.19, 1992.

***Protection of women and fundamental rights-***(Jain, 2018)***[[33]](#footnote-34)***the Act was being passed keeping in view the fundamental rights guaranteed under Articles 14, 15 and 21. Article 21 confers the right to life and liberty in negative terms, stating that it may not be taken away except by procedure established by law, which is required, as a result of judicial decisions, to be fair, just and reasonable.[[34]](#footnote-35)The right to life has been held to include the following rights (which are reflected in the Act), among others:

***The right to be free of violence-* Francis Coralie Mullin v. Union Territory Delhi, Administrator[[35]](#footnote-36)**

Supreme Court, Stated- any act which damages or injures or interferes with the use of any limb or faculty of a person, either permanently or even temporarily, would be within the inhibition of Article 21

This right is incorporated in the Act through the definition of physical abuse, which constitutes domestic violence (and is hence punishable under the Act). Physical abuse is said to consist of acts or conduct of such nature that they cause bodily pain, harm, or danger to life, limb or health, or impair the health or development of the aggrieved person

***The right to dignity***: **In Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan[[36]](#footnote-37)**

The Supreme Court emphasized the fact that the right to life included in its ambit the right to live with human dignity, basing its opinion on a host of cases that had been decided in favour of this proposition. The right to dignity would include the right against being subjected to humiliating sexual acts. It would also include the right against being insulted.

***The right to shelter***: In **Chameli Singh v. State of U.P[[37]](#footnote-38)**, it was held that the right to life would include the right to shelter, distinguishing the matter at hand from **Gauri Shankar v. Union of India[[38]](#footnote-39)** where the question had related to eviction of a tenant under a statute. Ss. 6 and 17 of the Domestic Violence Act reinforce this right.

**The Domestic Violence Act[[39]](#footnote-40)** promotes the rights of women guaranteed under Articles 14 and 15. Domestic violence is one among several factors that hinder women in their progress, and this Act seeks to protect them from this evil.

**MIS-USE OF SECTION 498(A)**

Way back in 1988there was already a distinct trend to include dowry demands in every complaint of domestic discord or cruelty, even when dowry was not an issue at all the police as well as lawyers were found to be encouraging female complainants to use this as a necessary ploy to implicate their marital families, making them believe that their complaint would not be taken seriously otherwise. With the enactment of 498 A, this tendency has received a further fillip. Mentioning dowry demands seems to have become a common ritual in virtually all cases registered with the police or filed in court.

For years after the new law had come into existence, the police would refuse to register cases under 498A unless specific allegations of dowry harassment were made. However, determined action by some women’s organizations ensured that this section came to be used in all situations of cruelty and violence — not just confined to dowry related violence. But, in places where there are no vigilant organizations taking up such cases, policemen and lawyers are often found encouraging complainants to add dowry demands as the main cause for cruelty. This has created an erroneous impression that all of the violence in Indian homes is due to a growing greed for more Dowry. This makes the crime look peculiarly Indian, but the truth is that violence against wives is common to most societies, including those which have no tradition of dowry. Often, highly exaggerated or bogus claims are made by unscrupulous families who demand the return of more than was given as Stridhan, using the draconian sections 498A and section 406 of the IPC as a bargaining tool. Sometimes the goal is reasonable — the woman wants the return of all items that legitimately belong to her, but she is encouraged to overstate her case and to demand an enhanced settlement as a pre-condition for divorce by mutual consent.

***Instrument of blackmail***- There are many number of number of cases coming to light where Section 498A has been used mainly as an instrument of blackmail. It lends itself to easy misuse as a tool for wreaking vengeance on entire families, because, under this section, it is available to the police to arrest anyone a married woman names as a tormentor in her complaint, as “cruelty" in marriage has been made a non-bail able offence. Thereafter, bail in such cases has been denied as a basic right. In many of the cases, the woman uses the strict provisions of 498A in the hope of enhancing her bargaining position visa a visa her husband and in-laws. Her lawyers often encourage her in the misguided belief that her husband would be so intimidated that he will be ready to concede all her demands. However, once a family has been sent to jail even for a day, they are so paranoid that they refuse to consider a reconciliation under any circumstances, pushing instead for divorce. Thus, many a woman ends up with a divorce she didn’t want and with weaker, rather than strengthened, terms of bargaining.(laws against domestic violence, n.d.)[[40]](#footnote-41)

**DOMESTIC VIOLENCE AGAINST MEN**

Women are not the only victim of domestic violence males also suffer from it but it becomes difficult to identify that men is a victim and not an abuser. As our mind is set that it is a male dominating society and they are the abuser women are the weaker section of the society and they are the victims only. There are lots of provisions and acts in India that are made to protect women and now many of the women take advantage of it. Men also go through mental cruelty as well as physical cruelty but either they are ashamed to share about the violence they are facing or feared that nobody will trust them and instead people are going to make fun of them. It is not easy for men to come in front and tell people about the violence they are facing because of their respective partners and if someone makes a courageous move and files a complaint against the abuser then the investigating officer either will not believe it or will neglect the situation.

Men can be victims why it is difficult for us to accept the fact, we always talk about equality of rights but are we really equal, why we are blind when the matter comes to see that men also needs help and legal justice. Violence becomes a common thing people who possess dominating nature just suppress the weaker partner it may be men or women. It is high time to stop gender bias and take a step to cease the violence act no matter who is the victim.[[41]](#footnote-42)(domestic violence in india, n.d.)

**CASE LAWS-**

**RAZIA BEGUM vs. STATE, NCT OF DELHI AND ORS.[[42]](#footnote-43)**

**Delhi High Court [(2011) 2 Ec. rc. 468][[43]](#footnote-44):-**

Protection of women from domestic violence act, 2005- section 2(q), 2(f) - ‘respondent’- every relative of husband cannot be made as respondent- in order to fix liability upon a respondent, he must be a person who is or has been in domestic relationship with aggrieved person.

**KRISHAN KUMAR AND ORS, Vs. NAVNEETAND Others.[[44]](#footnote-45)**

**Punjab and Haryana High Court:-**

Right to reside- Section 2(s) of protection of women from domestic violence act- house being exclusively belonging to father-in-law, it could not be called as a shared household within ambit of section 2(s) of the act.

**SHABNAM PARVEEN VS, STATE OF WEST BENGAL AND OTHERS.[[45]](#footnote-46)**

**Calcutta High Court:-**

Interim maintenance- widow daughter-in-law not entitled to maintenance from her father-in-law.

**SUGGESTIVE MEASURES**

Violence against women in the private realm is relegated to secondary status, whether in India or in the United States. Strong laws and public policies are essential steps toward combating such violence (ministry of women and child development , n.d.)[[46]](#footnote-47). But the real solution lies in a culture shift, in the world, and in each of our homes. Apart from the above Legal measures, the below given are some suggestive measures in context of India which if taken in its full form may placate a curve the menace of the 3Domestic Violence in India.

**Agencies:**

A wide variety of agencies exist which offer services in cases of domestic violence viz. Family court, Police station, Family Counseling Centre, Women’s Commission, People’s Council for Social Justice, and religious institutions.

**Awareness generation and sensitization:**

 Awareness about gender equality and women’s rights should be instilled in boys and girls from a very early age in order to bring about a change in the mindset of the future generation.

 Legal literacy camps should be conducted on a regular and systematic basis at the local community level.

 List of NGOs and governmental organizations dealing with women’s issues should be made known to the public.

**Fostering Self-Employment among Women:**

A woman entering into the business is not uncommon today. In fact more and more are keen on choosing business as a career. Self-employment is considered to be the best because it not only helps to change women's own self-perception but also helps to attain social status.

**Judiciary:**

 there should be a special court with a woman judge and magistrate in each district to handle domestic violence cases.

 only women magistrates should try cases of violence against women.

 Mobile courts should be introduced as an effective strategy to provide justice to the victims of domestic violence.

**Role of Government:**

 Government should ensure proper enforcement of existing laws related to women’s rights.

 Women should be made aware of Women’s Commission; offices of the Women’s commission should be opened at the district and lower levels.

 Police should be trained to be respectful and courteous to women in distress.

**Role of Media:**

Media should be used to sensitize the officials and the public about domestic violence so as to develop a positive attitude towards women in general, and women victims, in particular.

**Counseling for Person Affected:**

Due to the extent and prevalence of violence in relationships, counselors and therapists should assess every client for domestic violence (both experienced and perpetrated). If the clinician is seeing a couple for couple’s counseling, this assessment should be conducted with each individual privately during the initial interview, in order to increase the victim’s sense of safety in disclosing domestic violence, in the relationship. In addition to determining whether domestic violence is present, counselors and therapists should also make the distinction between situations where battering may have been a single, isolated incident or an ongoing pattern of control. The therapist must, however, consider that domestic violence may be present even when there has been only a single physical incident as emotional/verbal, economic, and sexual abuse may be more insidious.[[47]](#footnote-48)(J.C, 2005)

**Counseling for Offenders:**

The main goal for treatment for offenders of domestic violence is to minimize the offender’s risk of future domestic violence, whether within the same relationship or a new one. Treatment for offenders should emphasize minimizing risk to the victim, and should be modified depending on the offender’s history, risk of reoffending, and criminological needs.

Successful completion of treatment is generally associated with old age, higher levels of education, lower reported drug use, non-violent criminal histories, and longer intimate relationships. Anger management alone has not been shown to be effective in treating domestic violence offenders, as domestic violence is based on power and control and not on problems with regulating anger responses.

Treatment of offenders involves more than the cessation of abusive behavior; it also requires a great deal of personal change and the construction of a self-image that is separate from former behavior while still being held accountable for it. [[48]](#footnote-49)(mobihealth news, n.d.)

**CONCLUSION**

The Act could play a stellar role in protection of women’s rights in the household and in guarding them from domestic violence. In the very first instance, a recognition of domestic violence as something unacceptable, where it has become yet another social practice, is necessary and indeed, commendable in a patriarchal society. Having recognized the rights of women and the violation of these rights, the next step taken is providing innovative and efficacious remedies to enforce the same. The conceptualization of the Act thus far is admirable. Arguably, it could be said that the Act was passed to cater to the needs of women and not boys. After all, the very title of the Act indicates that it has been enacted to protect the rights of women. Yet, it must be kept in mind that domestic violence, though predominantly faced by women, be they wives, mothers, sisters or daughters, is also aimed against male children at times. It seems a poor excuse to say that male children should not be provided easily accessible relief from domestic violence simply because of their gender. Even if other forms of violence could be adequately addressed by the IPC (though this hardly seems the case), it is a fact that the sexual abuse of male children cannot be redressed in any apposite manner by it

One of the tragedies of independent India is that we have not yet learnt to distinguish between reasonable and unreasonable laws, between implementable and implementable laws, just as we have failed to create a law- enforcement machinery capable of providing genuine  recourse to all those whose rights have been violated.[[49]](#footnote-50)

Woman must not accept, she must challenge. She must not be awed by that which has been built up around her. She must respect that woman in her which struggles for

Expression. Achieving women's empowerment is not a “quick-fix”. It will take sound public policies, a holistic approach and long term commitment from all development

Actors. Women's empowerment is both a right and “smart economics”. In the ultimate analysis, empowering women is empowering society. Better women make better homes, abetter society, and help us men to better our best[[50]](#footnote-51)(legal serviceindia, n.d.)

**REFERENCES**

FRANCIS V. UNION TERRITORY DELHI ADMINISTRATION (Supreme court 1981).

Shanti v. state of haryana (supreme court 1991).

Gauri shanker v. Union of India (supreme court 1994).

chameli singh v. state of U.P (supreme court 1996).

Ahemdabad municipal corporation v. nawab khan (supreme court 1997).

Bajrang v. state (1998).

Shobha rani v. madhukar reddy (supreme court 1998).

Arbind kumar ambasta (2002).

Razia begum v. state NCT of Delhi (delhi high court 2011).

Razia Begum v. State NCT of delhi (Delhi High Court 2011).

Krishan Kumar & ors v. Navneet & ors (Punjab and haryana high court 2018).

Shabnam Parveen v. State of Westbengal (Calcutta High Court 2018).

bohem H, S. k. (2008). A behavioural approach to domestic violence . *journal of behaviour analysis of offender and victims*, 213.

C.S, A. (1992). social stress:theory and research. *annual review of sociology*, 15-38.

*CEDAW*. (n.d.). Retrieved from CEDAW Website: https://www.un.org/womenwatch/daw/cedaw/

Dhirajlal, R. &. (2005). *The Indian Penal Code.* Wadwa and company.

Dhirajlal, R. &. (2005). *The law of evidence.* wadhwa and company.

dhirajlal, r. a. (2005). *The Indian Penal Code.* wadhwa and company.

*domestic violence in india*. (n.d.). Retrieved from domestic violence in india website: https://www.vidhikarya.com/legal-blog/DOMESTIC-VIOLENCE-IN-INDIA-AND-THE-LEGAL-PROVISIONS

hamberger L.K, h. J. (1991). personality correlates of men who batter & non- violent. *journal of family violence*, 131.

Hart S.D, D. D. (1993). prevelance of personality disorder among wife assaultors. *journal of personality disorder*, 329.

*indiankanoon*. (n.d.). Retrieved from indiankanoon website: https://indiankanoon.org/

*indiankanoon*. (n.d.). Retrieved from indiankanoon website: https://indiankanoon.org/

J.C, c. (2005). commentry on websdale lethality assessment and approaches. *violence against women*, 1206-1213.

Jain, M. (2018). *Constitution of India.* Lexisnexis.

judith, w. (2001). encyclopedia on women and gender. *santiago economic press*, 183.

krentz H.B, G. J. (2010). Domestic Violence screening: Prevelance & outcomes in a acanadian HIV population. *AIDS patient care & STDs*, 763-770.

*laws against domestic violence*. (n.d.). Retrieved from laws against domestic violence website: http://www.indiatogether.org/manushi/issue137/laws.htm

*legal serviceindia*. (n.d.). Retrieved from legal serviceindia website: http://www.legalserviceindia.com/articles/dmt.htm

*ministry of women and child development* . (n.d.). Retrieved from ministry of women and child development website: https://wcd.nic.in/

*mobihealth news*. (n.d.). Retrieved from mobihealth news website: https://www.mobihealthnews.com/

*National coalation against domestic violence*. (n.d.). Retrieved from National coalation against domestic violence website: NCADV.org

*national crime records bureu*. (n.d.). Retrieved from national crime records bureu: https://ncrb.gov.in/

*national family and health survey*. (n.d.). Retrieved from national family and health survey site: http://rchiips.org/nfhs/

*reuters india*. (n.d.). Retrieved from reuters india website: https://in.reuters.com/

S.C, M. C. (1993). Family of original violence. *Violence and victims*, 165-176.

S.rukmani. (2014, december 19). Rape, Rhetoric & Reality. *the hindu*.

shorey, R. c. (2008). behavioural theory and dating violence. *journal of behaviour analysis*, 311.

*the lanct report*. (n.d.). Retrieved from the lancet site: https://www.thelancet.com/

*united nations*. (n.d.). Retrieved from unitednations web site.

*United nations*. (n.d.). Retrieved from United nations website: https://www.unicef.org/

*UNODC*. (n.d.). Retrieved from UNODC website: https://www.unodc.org/

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1. United Nations Declaration On The Elimination Of Violence Against Women, <<https://www.un.org/en/>>,May 9,2020 [↑](#footnote-ref-2)
2. Siemieniuk R. A. C., Krentz H. B., Gish J. A., Gill M. J, 'Domestic Violence Screening: Prevalence and Outcomes in a Canadian HIV Population', (2010), Vol no./issue 24(12), Aids patient care and STDs,<<https://www.ncbi.nlm.nih.gov/pubmed/21138382>>,May 9, 2020 [↑](#footnote-ref-3)
3. National coalition against domestic violence(NCADV),<<https://ncadv.org/>>, May 13, 2020 [↑](#footnote-ref-4)
4. National Family and Health survey,<<http://rchiips.org/nfhs/>>, May 13,2020 [↑](#footnote-ref-5)
5. Lancet Report on Sexual Violence in India,<<https://www.thelancet.com/>>, May 13, 2020 [↑](#footnote-ref-6)
6. National Crime Record Bureau Survey,<<https://ncrb.gov.in/>>, May 12, 2020 [↑](#footnote-ref-7)
7. S.Rukmani,' Rape, Rhetoric& Reality', The Hindu(Delhi, December19 2014) [↑](#footnote-ref-8)
8. United nations office on drugs and crimes Surveys,<<https://www.unodc.org/>>, May 13, 2020 [↑](#footnote-ref-9)
9. Reuters India,<<https://in.reuters.com/>>,May 12, 2020 [↑](#footnote-ref-10)
10. United nations,<<https://www.unicef.org/>>, May 12, 2020 [↑](#footnote-ref-11)
11. The report by the United Nations World Population Fund,<<https://www.unfpa.org/>>, May 9, 2020 [↑](#footnote-ref-12)
12. Multi country study on Women's health and domestic violence against women,<<https://www.who.int/>>, May 14, 2020 [↑](#footnote-ref-13)
13. Hemberger L. K., Hastings J. E,‘Personality correlates of men who batter and nonviolent men: Some continuities and discontinuities’,(1991), Vol no./issue 6(2), journal of family violence,<<https://link.springer.com/article/10.1007/BF00978276>>, May 8, 2020 [↑](#footnote-ref-14)
14. Hart S. D., Dutton D. G., Newlove T, ’The Prevalence of Personality Disorder among Wife Assaulters’,[1993], Vol no./issue 7(4), journal of personality disorder,<<https://guilfordjournals.com/doi/abs/10.1521/pedi.1993.7.4.329>>, May 8, 2020 [↑](#footnote-ref-15)
15. Shorey, R.C. Cornelius T.L., Bell K.M, ’Behavioral Theory and Dating Violence: A Framework for Prevention Programming’,[2008],Vol no./issue 1(4), journal of behavioral analysis of offender & victim,<<https://psycnet.apa.org/fulltext/2014-55092-001.html>>, May 8, 2020 [↑](#footnote-ref-16)
16. Bonem M., Stanely Kime K.L., Corbin M,’A behavioral approach to domestic violence’,[2008], Vol no./issue 1(4),journal of behavioral analysis of offender & victim,<<https://www.ncbi.nlm.nih.gov/pubmed/26739240>>, May 8, 2020 [↑](#footnote-ref-17)
17. Aneshensel C. S,‘Social Stress: Theory and Research’,[1992],Vol no.18, annual review of sociology,<<https://www.annualreviews.org/doi/abs/10.1146/annurev.so.18.080192.000311>>, May 8 2020 [↑](#footnote-ref-18)
18. Murphy C. M., Meyer S. L., O'Leary K. D, ‘Family of origin violence and MCMI-II psychopathology among partner assaultive men’,[1993],Vol no./issue 8(2), violence and victims,<<https://www.ncbi.nlm.nih.gov/pubmed/8193057>>, May 9, 2020 [↑](#footnote-ref-19)
19. Worrall Judith, Encyclopedia of Women and Gender[2001], Santiago economic press,<<https://www.elsevier.com/books/encyclopedia-of-women-and-gender-two-volume-set/worell/978-0-08-054849-4>>, May 9, 2020 [↑](#footnote-ref-20)
20. Indian kanoon,<<https://indiankanoon.org/>>, May 12, 2020 [↑](#footnote-ref-21)
21. Ratanlal & Dheerajlal, Indian Penal Code, [35thed., Wadhwa & co.,2005] [↑](#footnote-ref-22)
22. ''ibid'' [↑](#footnote-ref-23)
23. ''ibid'' [↑](#footnote-ref-24)
24. (1991)AIR 1226 [↑](#footnote-ref-25)
25. Arbind Kumar Ambasta v. state,(2002) Cr. LJ 3973 [↑](#footnote-ref-26)
26. Bajrang v. state, (1998) Cr. LJ 134 [↑](#footnote-ref-27)
27. Ratanlal & Dhirajlal, The Indian Penal Code, [35thed., Wadhwa & co.,2005] [↑](#footnote-ref-28)
28. ''ibid'' [↑](#footnote-ref-29)
29. Shobha rani v. Madhukar reddy, (1998) 1 SCC 105 [↑](#footnote-ref-30)
30. Ratanlal & Dhirajlal, The law of Evidence, [35th ed., Wadhwa & co., 2005] [↑](#footnote-ref-31)
31. Indian kanoon,<<https://indiankanoon.org/>>, May 9, 2020 [↑](#footnote-ref-32)
32. Convention on Elimination of All Form of Domestic Violence,<<https://www.un.org/womenwatch/daw/cedaw/>>, May 9, 2020 [↑](#footnote-ref-33)
33. M.P Jain, Constitution of India, [8th ed., Lexisnexis,2018] [↑](#footnote-ref-34)
34. Protection of women from domestic violence,<<http://www.legalserviceindia.com/articles/dmt.htm>>, May 9, 2020 [↑](#footnote-ref-35)
35. (1981) AIR 746 [↑](#footnote-ref-36)
36. (1997) 11 SCC 121 [↑](#footnote-ref-37)
37. (1996) 2 SCC 549 [↑](#footnote-ref-38)
38. (1994) 6 SCC 349 [↑](#footnote-ref-39)
39. Indian kanoon,<<https://indiankanoon.org/>>, May 9, 2020 [↑](#footnote-ref-40)
40. Kishtwar,Laws against Domestic Violence,<<http://www.indiatogether.org/manushi/issue120/domestic.htm>>, May 13, 2020 [↑](#footnote-ref-41)
41. Domestic violence in India,<<https://www.vidhikarya.com/legal-blog/DOMESTIC-VIOLENCE-IN-INDIA-AND-THE-LEGAL-PROVISIONS>>, May13, 2020 [↑](#footnote-ref-42)
42. (2011) 2 Cri. cc 211 [↑](#footnote-ref-43)
43. '' ibid'' [↑](#footnote-ref-44)
44. (2018) 3 HLR 177 [↑](#footnote-ref-45)
45. (2018) AIR cal. 57 [↑](#footnote-ref-46)
46. Ministry of Women and Child Development,<<https://wcd.nic.in/>>, May 11, 2020 [↑](#footnote-ref-47)
47. Campbell, J.C 'commentary on webs dale, ’lethality assessment approaches: reflection on their use & ways forward' ,[2005],Vol no./issue 11(9), Violence against women,<<https://jhu.pure.elsevier.com/en/publications/commentary-on-websdale-lethality-assessment-approaches-reflection-4>>, May 10, 2020 [↑](#footnote-ref-48)
48. Applications to help physicians screen for domestic abuse,<<https://www.mobihealthnews.com/>>, May 12, 2020 [↑](#footnote-ref-49)
49. Kishwar, Laws against Domestic Violence, <<http://www.indiatogether.org/manushi/issue120/domestic.htm>>, May 11, 2020 [↑](#footnote-ref-50)
50. Protection of women from domestic violence,<<http://www.legalserviceindia.com/articles/dmt.htm>>, May 10, 2020 [↑](#footnote-ref-51)