

# Violence Against Women In India : An Analytical Overview

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## ABSTRACT

*According to Constitution of India, women are legal citizens of the country and have equal rights with men (Indian Parliament). Because of lack of acceptance from the male dominant society, Indian women suffer immensely. Women are responsible for bearing children, yet they are malnourished and in poor health. Women are also overworked in the field and complete the all of the domestic work. Most Indian women are uneducated.. There has been increasing concern about violence against women in general and domestic violence in particular, in both developed and developing countries. In the Indian patriarchal setup, it became an acceptable practice to abuse women. There may be many reasons for occurrence of domestic violence. It may be said that the occurrence of domestic violence against women arises out of the patriarchal setup and the distribution of power in society. It is high time for a healthy society that women of our country and everywhere should get a respectable and dignified position in the society. Their equal position and equal rights should be effectively implemented. Awareness in the women as well as the whole society has to be created with respect to the dignified life which she is entitled as of right. The machinery of implementation of laws should be easily approachable and should not be inefficient, corrupt or harmful for the victims. It may be conclude from an overall discussion of the Domestic Violence Act,2005, encompasses women's experience of violence and address the issue adequately. Nothing can be done by legislation; there has to be awareness in the community. Moreover, there is a need to bring about the awareness amongst the women so that they can speak for themselves and get justice in case their rights are violated.*

*Keywords: Women, domestic ,violence, constitution, people, rights.*

## Introduction:

According to Constitution of India, women are legal citizens of the country and have equal rights with men. Because of lack of acceptance from the male dominant society, Indian women suffer immensely. Women are responsible for bearing children, yet they are malnourished and in poor health. Women are also overworked in the field

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and they have to complete all of the domestic work. Most Indian women are uneducated. Although the Constitution says women have equal status to men, women are powerless and are mistreated inside and outside the home. There has been increasing concern about violence against women in general and domestic violence in particular, in both developed and developing countries. In the Indian

patriarchal setup, it became an acceptable practice to abuse women. There may be many reasons for occurrence of domestic violence. It may be said that the occurrence of domestic violence against women arises out of the patriarchal setup and the distribution of power in society. Following such ideology, men are believed to be stronger than women and more powerful. They control women and their lives as a result of power play, they may hurt women with impunity. The role of women is to accept her 'fate' and the violence employed against her submissively.

**Objectives of study:**

To assess the degree of the spread of the domestic violence in various areas of India.

To understand the various socio-economic causes behind the domestic violence in India.

To ascertain the impact of this unhealthy social evil.

To study the domestic violence under The Domestic Violence Act, 2005.

**Methodology:**

Since the domestic violence against women prevails almost in all parts of our country i.e the whole of the Indian Territory has been considered for study. Information was collected from secondary sources. The secondary source of data had collected from different books, journals, papers, reports, prepared by WHO, NCRB(National Crime Records Bureau)and also from various websites.

**Situational Analysis:**

For a country on a dizzying upward economic growth trajectory, India's treatment of its women is abysmal. Dowry deaths, rapes, molestations and a swathe of other crimes against women are

commonplace even amongst the socio- economic elite. But what lends this scenario a surreal twist are the shocking findings of the latest National Family Health Survey (NFHS), a pan-India survey conducted by 18 research organisations (including the International Institute for Population Sciences), according to this survey 37.2 per cent of married Indian women regularly experience spousal violence.

The latest NFHS, the third in a series since 1992, reports that gender discrimination is rampant in Indian society with boys having better access to education, food and other amenities and girls comparatively being given short shrift. The NFHS database— conducted on a representative sample of households throughout India— is designed to strengthen India's demographic and health policies and provide national-level information about infant/ child mortality, maternal/ child health and the quality of health and family planning services.

The health survey— which contains disquieting revelations about the iniquitous status of Indian women -also highlights that India trails in a number of health and development indices, with growth benefits not percolating down to the fairer sex even in urban areas. In fact, women's "empowerment" still remains a chimera, with only half of Indian women — 61.4% urban and 48.5% rural -participating in household decisions.

The survey, for instance, found Bihar (population: about 82 million, literacy rate: 47 per cent, the lowest amongst all Indian states) to be the most retrogressive address for its women, with a whopping 59 per cent of its women facing regular (and often extreme) matrimonial abuse. Intriguingly, 63 per cent of these cases were reported from urban,

well-to-do families rather than backward rural ones. Madhya Pradesh —with an abuse rate of 45.8 per cent and Rajasthan and Manipur with 46.3 per cent and 43.9 per cent respectively - came in a notch below Bihar. The survey also reveals that uneducated women were far more likely to have experienced spousal violence than their educated counterparts.

Interestingly, the worst affected women in the survey are in the age band of between 20 to 40 years, though in some cases even those above 50 report regular spousal batter. Shockingly, though the figure of 37 per cent spousal violence is itself high, experts reiterate that the numbers are underreported and could be higher still, somewhere in the realm of 65 per cent.

The sobering findings lends itself to the question — why does the land of the Mahatma, that has traditionally viewed “stree” (women) as the embodiment of “shakti” (power) — ill-treat them thus? Perhaps the answer is embedded deep in the national mindset. Indian women, especially the rural folk, have deep-rooted fears about losing their economic support and shelter if they rebel against a violent spouse. There is also a lurking fear of ostracism which makes them put up with abuse as their “destiny”. Interestingly, urban women - educated and economically independent - too, suffer spousal violence though in their case, it usually in the interest of progeny that they stay married. By extension, in the predominantly patriarchal Indian society, the stigma of divorce is still a large cross to bear for battered women, as are the responsibilities of single motherhood.

Also, a strong “martyr” image association - and the pathos generated by the suffering

underdog - prevent battered Indian women from fleeing abusive situations. The consequences are damning as nearly 74.8 per cent of abused women, report surveys, are propelled towards committing suicide. But even if they are not driven to such extremity, it spousal violence can negatively impact a woman’s mental and physical health, triggering off a slew of psychosomatic disorders.

Unfortunately in India, more national economic prosperity has led to a corresponding upward spiral of crimes against women. The National Crime Records Bureau (NCRB) reports that from an average of 125 women who faced domestic violence everyday in India in 2000, the number has ratcheted up to 160 in 2005. Also, more than 19 Indian women are killed for dowry everyday, 50 are raped and 480 subjected to molestation and abduction. The Bureau stated that 45 per cent of Indian women are slapped, kicked or beaten by their spouses with India also having the highest rate of violence against women during their pregnancies -nearly 50 per cent women were kicked while expecting babies with nearly 74.8 per cent attempting to commit suicide. As per NCRB(National Crime Records Bureau) the number of cases registered in related to crimes against women was 309546 in 2013 report. From 50,703 in 2003, the number of reported cases has gone up to 118,866 related to Domestic violence in 2013 - an increase of 134% over 10 years, far out-stripping the rise in population over the same period.

In a recent study of 3,000 women aged 18-50 years conducted by a pan-India NGO - Sangath - in nine villages in Goa, a popular tourist destination in western India, 14.5 percent women complained of having an abnormal vaginal discharge due to

verbal, physical and sexual violence and psychosocial distress. Depression and anxiety were common complaints amongst these women. Women who complained of vaginal discharge also reported that due to stress, they had meager interest in their daily lives.

According to a recent World Health Organisation (WHO) report, one in six women around the world suffer from domestic violence. Based on a survey of 24,000 women from rural and urban areas in 10 countries, the report noted that female victims of domestic assault were twice as likely to suffer poor health than other women. This kind of abuse was also responsible for the spread of HIV amongst women, as abused women were not in a position to demand safe sex.

A 2005 WHO publication 'Addressing Violence Against Women and Achieving the Millennium Development Goals' defines violence against women along four identifiable acts. These are physical violence (slapping, pushing, choking, burning, threatening with a weapon); sexual violence (forced sex or degrading sexual acts); emotional violence and finally, intimate-partner violence (specifically, domestic violence). The last, says the study, is the most common and universal form of violence experienced by women.

The WHO recommends that prevention of violence should be integrated into health care programs. Indeed there is an urgent need for reproductive health programs to acknowledge the role of gender-based violence and psychosocial distress in addressing the reproductive health needs of women.

But health professionals themselves need training to detect victims of such violence and

extend psychological counseling to them. This would certainly be a good start as grassroots activists and healthcare volunteers - who work closely with India's victims of spousal violence and hospital personnel handling their cases - report that hospital staff, including doctors, often do not perceive domestic violence as a "health issue" but rather as a "private family matter". Hence, scarcely, if at all, are they willing to go beyond their formulaic role of providing medicine to physically battered women.

However, in a belated but welcome move, the Indian Parliament has, for the first time ever, passed the path-breaking - Protection of Women from Domestic Violence Act in the year 2005. The Act defines "domestic violence" as all forms of abuse — physical, sexual, verbal, emotional and economic. Physical violence is defined as "beating, pushing, shoving and inflicting pain" while sexual violence covers a slew of offences such as "forced sex, forced exposure to pornographic material or any sexual act with minors".

The Act also seeks to offer women victims civil remedies hitherto unavailable to them. Until recently, Indian women could only seek recourse in Section 498A of the Indian Penal Code (IPC) to file a complaint against an abusive spouse (which did not give the woman the right, for instance, to stay on in her matrimonial home or to demand maintenance from the abusive partner), the new law now provides her with a civil panacea. The Act also lays down stringent rules to prosecute men who harass/ beat/insult their spouses. Partner abuse can now land a man in jail for one year or a fine up to Rs.20,000 (about US\$470) or both.

But while the Act, a landmark legislation no

doubt, augurs well for human rights, there is skepticism that it may offer little succor to the rural poor (70 per cent of India's populace) who do not place much trust in such laws in any case. In fact, to many illiterate Indian women, "human rights" legislations challenge the well-entrenched notions of individual and community identity. Another fear is that the Act - despite the current ballyhoo swirling around it - may well remain a paper tiger as India has the most abysmal rate of conviction in spite of possessing the world's most exhaustive and complex set of laws.

So where really does the solution lie to the malaise of spousal violence lie? In quick punitive action against the barbaric male who batters his wife/partner? In enlightening women victims to not suffer in silence and speak up against their injustice? Or with the police/courts who ought to catalyse the delivery of justice? Indeed, the solution is multi-dimensional. In the meantime, the Domestic Violence Act definitely kindles hope by bringing this important issue from the periphery of people's consciousness to the center of national development discourse.

The right to life has been held to include the following rights which are reflected in the enactment and which are given below:

**Right to be Free from Violence:**

**In Francis Coralie vs. union Territory Delhi, Administrator, AIR 1981 SC 746**, 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 Art. 21'. This right is incorporated in the enactment through the definition of physical abuse, which constitutes

domestic violence and is hence punishable. 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. Apart from this, the enactment also includes similar acts of physical violence and certain acts of physical violence as envisaged in the Indian Penal Code, 1860 within the definition of domestic violence. By adoption of such an expansive definition, the Domestic Violence Act, 2005 protects the right of women against violence.

**Right to Dignity :**

**In Ahmedabad Municipal Corporation vs. Nawab Khan Gulab Khan, AIR 1997 SC 152**, 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. These two facets of the right to life find mention under the definitions of sexual abuse and emotional abuse, respectively'. A praiseworthy aspect of the legislation is the very conception of emotional abuse as a form of domestic violence.

**Right to Shelter:**

**In Chameli Singh vs. State of Uttar Pradesh, AIR 1996 SC 1051**, it was held that the right to life would include the right to shelter, distinguishing the matter at hand from **State of Madhya Pradesh vs. Gauri Shankar, 2005(8) SCC 121** where the question was with regard to eviction of a tenant under a statute. In the Domestic Violence Act, 2005, Ss. 6 and 17 reinforce this right. Under S. 6, it is a

duty of the protection officer to provide the aggrieved party accommodation where the party has no place of accommodation, on request by such party or otherwise. Under S. 17, the party's right to continue staying in the shared household is protected. These provisions thereby enable women to use the various protections given to them without any fear of being left homeless.

Article 14 of the Constitution of India contains the equal protection clause. It affirms equality before the law and the equal protection of the laws. 'Art. 14 prohibits class legislation, but permits classification for legislative purposes. A law does not become unconstitutional simply because it applies to one set of persons and not another. Where a law effects a classification and is challenged as being violative of this Article, the law may be declared valid if it satisfies the following two conditions: Firstly, the classification must be based on some intelligible differentia and secondly, there must be a rational nexus between this differentia and the object sought to be achieved by the law. As a result of the ruling in cases such as **E.P. Royappa vs. State of Tamil Nadu, AIR 1974 SC 555**, any law that is arbitrary is considered violative of Art. 14. This provision is significant in putting a stop to arbitrariness in the exercise of state power and also in ensuring that no citizen is subjected to any discrimination. At the same time, it preserves the state's power to legislate for a specific category of people. Art. 15 disallows discrimination on the grounds of religion, caste, sex, race, etc, but permits the state to make special provisions for certain classes of persons, including women and children.

The Domestic Violence Act, 2005 promotes the

rights of women guaranteed under Arts. 14 and 15. Domestic violence is one among several factors that hinder women in their progress, and this enactment seeks to protect them from this evil. It indeed effects a classification between women and men, protecting only women from domestic violence, but this classification is founded on an intelligible differentia, namely, gender, and also has a rational nexus with the object of the enactment. Further, the enactment is not arbitrary and this legislation is a necessary attempt to curtail domestic violence. It is to be remembered that it is generally women who are the victims of domestic violence, and not men. At this stage, it is also essential to keep in mind Art.15 (3) which empowers the state to make legislations like the above legislation for the protection of women.

The remedy available to a victim under the enactment is exclusive for her and hence in case if she fails to exercise them, and approaches an alternative forum, it depends on the discretion of the judge to admit it or dismiss it. In the case of **Maya Devi vs. State of N.C.T. of Delhi, AIR 2007 Del 117** the petitioner had got an alternative remedy under the Domestic Violence Act, 2005 which she did not avail and because of that High Court dismissed her petition.

As the criminal justice system groans under weight of cases filed, alternative solutions are being found world over. Compounding of offences, plea bargaining, etc. are found in the criminal justice delivery system in a large number of countries including India. 'Restorative justice' may be used as a synonym for mediation. The object and nature of restorative justice aims at restoring the interest of the victim. Involvement of the victim in the

settlement process is welcome in the process of restorative justice. It is a process of voluntary negotiation, directly or indirectly between the offender and the victim, (**Anupam Sharma vs. NCT of Delhi, 2008(146) DLT 497.**)

Though most of the educated Indians surely share the concern, we cannot be sure if all those concerned people knew the root cause of the problem. Let me first look into the main causes and then see if there is any solution to the problem.

### **Main Causes**

#### **Social Conditioning**

The social conditioning of how men should behave and how women should behave made the society to mould men and women in a different manner. While men can behave improperly with women while in a group, we rarely see the women behave in the same manner. Has any one heard about a group of women abusing a single man? Very rarely such a thing happens and if it happens, the news coverage about such women will be heinous. A similar behavior by men at multiple places will not get such coverage. That means society subconsciously expects only men to abuse women. If girls are also brought up without inducing fear in them and they too grow up with the same naughty behavior as men exhibit, there will be many men who will surely rear and run away when they look at women.

In such a society where gender difference is minimized, the cases of abuse and violence will be reported just the way some other crimes are reported rather than showcasing as crime against women. While the above applies to all the countries in the world, India has institutionalized the behavior of women in such a manner that is acting

detrimental to women's interests due to back seat taken by women. Families bring up girl child in the most protected environments and the girls never will be able to develop the courage required to face the abusers. The same families will not monitor the boys and allow them to move freely along with their peers at any age. The boys thus develop not only the courage to face the society, but many of them even become naughty with respect to behavior with women. These boys rarely think that it is a mistake or crime to do so. They just believe that it is manly to behave in such a manner due to the influence passed on from the peers and of course seniors. Such conditioning has been passed on and on between generations.

#### **Biological Reasons**

Company of girl is important for a boy and vice versa as well. It is not just for marriage. Such a company is required in every age during the growth of the children as adults. If a man is brought up in such circumstances and has been between women throughout the life during school and college and finally at work, he will not look at women with awe. Many of the women abusers come from backgrounds where they have less interaction with women. In spite of the fact that they study in co-education schools and colleges, if the schools/colleges have social conditioning in such a manner that boys sit separately and girls sit separately, the actual mix up and understanding of the opposite sex does not happen and the people from both the sexes look at the actions of the ones in opposite sex with awe.

That creates intense desire to know about the persons in the opposite sex. This desire will some day blow up into a wrong doing due to the

biological need of the individual. Also due to the risk of unwanted pregnancy for women and with no such fear for a man, the woman becomes more vulnerable.

### **Physical Strength**

It is a proven fact that a man is physically powerful than a woman. This is the basic reason why the abuser is the man most of the times and not the woman. Things might have been probably different if a woman was more powerful physically. The society would have achieved gender equality long back had the nature created the woman powerful than a man. It is always safe to have the one who should bear the pregnancy more powerful. There is nothing for a man to fear even if he is weak as he does not have the fear of pregnancy.

### **Peer Influence**

Peer influence will make women fear the men and the same peer influence will give courage and sense of satisfaction in men to chase women and abuse them.

### **Solution**

#### ***Long Term Solution***

1. Proper education curriculum should be created to ensure peer influence is made even in both the sexes.
2. Ensure that the boys and girls mix with each other from very young age so that people take the opposite sex casually than with awe
3. Kill all the social stereo types
4. Men get all their confidence initially due to group behavior and during that phase observe that the woman fears and runs. The confidence will later allow the men to take on the women all alone as well. The solution will be ideal to curb

such thoughts in men, but it is not practical.

Hence the most practical solution is to mould women also in such a manner that when in groups men also fear them and run. That will slowly bring the equality of sexes.

#### ***Short Term Solution***

1. Create strict laws to counter the menace
2. Equip women with self defense techniques
3. Promote literacy in women
4. Respect single women as well and do not create social pressure on their marriage
5. Make the women aware of their rights created through law and make the social organizations accessible.

### **Conclusion**

It is high time for a healthy society that women of our country and everywhere should get a respectable and dignified position in the society. Their equal position and equal rights should be effectively implemented. Awareness in the women as well as the whole society has to be created with respect to the dignified life which she is entitled as of right. The machinery of implementation of laws should be easily approachable and should not be inefficient, corrupt or harmful for the victims.

It is also essential that the media including news, radio and television should devise some programmes to give information and create awareness among women and the society about women's rights. Moreover, it is for all of us and women folk facing or fighting violence within homes to unite in demand for a comprehensive law on domestic violence.

It may be conclude from an overall discussion of the Domestic Violence Act,2005, that the range and details in which various definitions and forms



of relief have been drafted, ultimately show a clear effort on the part of the legislators to provide adequate redressal and protection. This law encompasses women's experience of violence and address the issue adequately.

Nothing can be done by legislation; there has to be awareness in the community. The need is to change the patriarchal nature of society through the changes in socio-economic conditions

The growth of employment prospects for women, the rising age of marriage, rising educational levels for women and the breakup of the extended family could deter the family to such heinous crime. What needs to come first is a system that changes relations between people, especially within families. It should have therefore been the duty of the state to create awareness amongst rural people about the laws of the land and also educate them. Indeed, it is the bounden duty of every citizen to develop scientific temper, humanism and the spirit of inquiry and reform. It should be done preferably at the village level through the medium of language and culture of the villagers themselves. Moreover,

there is a need to bring about the awareness amongst the women so that they can speak for themselves and get justice in case their rights are violated.

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