



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

CAUSES AND CONSEQUENCES OF DOMESTIC VIOLENCE

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Sub-Theme - Gender, caste, and social equity in indigenous legal practices.

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Causes And Consequences Of Domestic Violence

Abstract

Domestic violence is a multiplex social issue that affects individuals, families, and society at large. It is mostly believed that women are the only victims, but with reasonable evidence, it is seen that in the past years, men have also been affected. However, the male victims are mostly ignored.

This paper delved deep into the present situation of domestic violence, also focusing on its consequences and the misuse of laws related to the same. Although pre-existing laws have been successful in governing and protecting many women, there are also developing concerns about the miscarriage of these laws. A few individuals exploit these laws for their personal concerns, such as trying to get faster divorces, asking for maintenance through unfair means, or trying to settle the cases outside the courtroom with the intention to separate at the expense of the innocent, falsely accused partner. These kinds of acts are made for personal benefits, which also harm the reliability and genuineness of the victims.

Therefore, this paper advocates for amendments to existing laws or the creation of new laws that are more gender-neutral and better suited for today's needs. These laws should be accessible to both genders, and there should also be proper verification for all the incidents relating to domestic violence to establish proper and fair delivery of justice.

Synopsis

Domestic violence is a complex social problem that cuts across gender, impacting individuals, families, and communities around the world. Long been viewed as an issue that mostly touches women, current research has shown that men are also subject to domestic violence, but usually in hidden and underreported terms. This research paper examines the etiology, impacts, and legal issues of domestic violence, calling for a broader and gender-free response to tackling this widespread problem.

Introduction

Domestic violence is a common phenomenon that reaches families and communities globally. Domestic violence is abusive or violent behavior in intimate relationships, generally by members of the same family or in close relationships. Domestic violence still exists in India and, to a certain extent, it is even accepted because there are numerous social, cultural, and historical reasons. Among the main contributors is the uneven distribution of power in the family, with women facing limitations on their rights and possibilities for personal growth. The power inequality has the effect of forcing women to succumb to the authority of their male counterparts, resulting in abusive and violent situations.

In Indian culture, gender stereotypes continue to perpetuate the notion that women must be content with their situation and not pursue independence and self-development. These attitudes are easily promoted by societal norms and cultural values. But pieces of legislation like the Protection of Women from Domestic Violence Act (2005) have gone a long way in combating this. Moreover, provisions of the Indian Penal Code (IPC), more particularly Section 498A and 304B, also regulate domestic violence cases.

Indian domestic violence has a strong connection to cultural problems, specifically gender inequality. The disparity of power between the genders, along with variables like marital pressure, alcoholism, and financial stress, all play a part in the rate of violence in the home. These issues should be addressed very specifically in any attempt to minimize domestic violence and uphold women's rights in India¹.

Objective

It aims to examine and learn the reasons for violence and after-violence situations within a community or family while having a gender neutral mindset, which is an essence as per the new era. This kind of violence equally affects both genders in every aspect of society and in any other aspect in which they are considered individually. This paper would also like to include the

¹Michael R. Huecker et al., *Domestic Violence*, in *StatPearls* (StatPearls Publ'g 2023), <https://www.ncbi.nlm.nih.gov/books/NBK499891/>

constitutional validity and the equality under current laws.² It seeks amendments in laws which should now include both genders as the victims of domestic violence and should consider the concept of non-discrimination and equality under our constitution.

Research Methodology

This research paper includes mainly two types of methodology used to draft this paper.

The first type, and the most basic method used, is by reviewing the existing literature, which includes studies, reports, legal documents, and articles. All these resources are useful to formalize and confirm the causes and consequences of violence.

The second type includes all the legal angles and provisions made to overcome this issue, and also focuses on real-life implementations of the framework.

Causes of Domestic Violence

The base/main cause of domestic violence is multidimensional and very complex, but it is often exacerbated by the influence of the individual, society, or relations between individuals. To cover the whole topic as one, it is necessary to know the causes and factors that cause these kinds of acts³.

- 1) One of the major reasons for violence is the abuser's or cause's psychological state of mind due to his/her surrounding environment.

This might include -

Agony caused in childhood, as a witness to violence since childhood.

Dominating nature, the other partner might try or insist that the other work or act as per his/her needs and wishes.

An emotionally unstable person can be more exposed to this kind of behavior/acts.

²M. Mahadevaswamy & S. Nathawat, *Understanding Domestic Violence Against Women: Causes, Consequences, and Interventions: A Comprehensive Study*, 11 *Int'l J. Indian Psych.* 1226 (2023), <https://doi.org/10.25215/1104.110>

³ Nat'l Inst. of Just., U.S. Dep't of Just., *Causes and Consequences of Intimate Partner Violence* (Oct. 24, 2007), <https://nij.ojp.gov/topics/articles/causes-and-consequences-intimate-partner-violence>

2) **Social/Cultural factors** - In many families, it is a cultural practice not to interrupt other family matters, and these types of incidents are often viewed as personal problems rather than societal issues, which can sometimes lead to a feeling of helplessness in the victims. Traditions last in families in which the male partner dominates, and when he is not given enough importance or a supervising position, it leads to violence, which can be done by either partner to prove themselves.

The obsession or desire to have a male child also plays a significant role as a contributing factor.

3) **Dowry** - It is a societal tradition and a cultural belief to ask for dowry from the woman, and if the desired amount is not received, it constitutes abusive behavior to the wife by the husband and the family. This tradition is not the same everywhere; in some regions, men can also be victims, particularly not for dowry but for other factors.

4) **Substance abuse** - Any kind of addictive substance abuse can lead to violence, causing behavior as it affects and leads to loss of temper early, and also affects a person's ability to judge fairly.

5) **Financial stress** - This factor is considered to create an imbalance between partners, leaving any one of them more dependent on the other, which can be used as an excuse to abuse the other partner. In COVID-19, economic stress was a major issue, which led to many violent actions across the country.

While several factors lie in contribute to this kind of violence, the former factors mentioned are major/ primary elements.

Consequences of Domestic Violence

Domestic violence can lead to both short-term and long-lasting effects from this kind of act, not only against the victim but also against the perpetrator. It can leave a mark of guilt for the act the perpetrator has committed. It not only affects the two individuals involved but also affects the families on both sides, the dependents of the individuals, who are mostly the children. These kinds

of acts or incidents can lead to both types of harm, which are physical and emotional. Generally, the emotional harm caused lasts longer, and the physical harm caused in most cases is short-term but can result in long-lasting effects if caused in excess or repeatedly⁴.

Types of physical harm that can be caused include

- 1) Chronic pain
- 2) Sexual issue
- 3) Trauma causes brain injury
- 4) Digestive issue
- 5) Heart-related issues
- 6) Sprains and Strains

Emotional and mental harm includes

- 1) Post-traumatic stress disorder
- 2) Initiating the use of a substance
- 3) Anxiety disorder
- 4) Depressive disorder

Sometimes the victims can also consider themselves the reasons for incidents caused, and these kinds of acts and thoughts can result in suicidal thoughts and can interfere with further relationships. It also creates emotional instability in relations.

Emotional harm caused cannot be noticed from the outside, but it is equally serious as any other physical injury and can even result in more and longer-lasting harm. It can result in doubting their own thoughts and questioning their memory and the ability to judge. It results in feeling helpless and makes the person isolated, and they lose connections with family/friends. This also increases the dependency of the victim on the violence causer.

⁴Divya Rai, *Introduction to Domestic Violence on Children*, **iPleaders** (Dec. 1, 2020), <https://blog.iplayers.in/introduction-to-domestic-violence-on-children/>

Domestic violence might be caused only between two individuals, but it still affects the people in relation to them, mostly children, as they are growing, and this type of surroundings and environment can be a troublemaker in their development and in their future behavior. Minors/Children who are witnesses to this kind of act are more likely to develop the same kind of behavior. Even if they are only the witnesses and no harm in any manner is caused to them. The minors might get severely affected by witnessing these kinds of incidents or seeing their parents being hurt, or seeing them in any kind of trouble⁵.

They might develop tension, strain and unease at the very crucial stage of their life which in most cases affects the rest which is the most of their lives.

A witness of a violent family may experience -

- 1) Lesser Adaptability
- 2) Always staying under pressure
- 3) Might start acting maturely at a very young age
- 4) They might start considering themselves as the issue.
- 5) They may resist socializing
- 6) They have more chances to develop abusive behavior
- 7) They might start using alcohol or any other substance.

Domestic violence or family violence can lead to separation in most cases; it weakens the base of the marriage. This act replaces the trust, destroys relations, and creates an environment that is not bearable by the victim. Domestic violence is described as cruelty in the law. Many partners or individuals at a very early stage of the violence cycle try to solve these issues, but every person has their own bearing powers, and sometimes they cannot suffer more, which results in the separation of partners and disturbs the whole family and the dependents of the individuals. In most matters, divorce is the only scope left to overcome and escape the sufferings.

⁵ **P. Anne Carolin & G. Gladston Xavier**, *Impact of Domestic Violence on Children: Causes and Preventive Measures*, 16 *Educere: BCM J. Soc. Work* 32 (2020), <https://bcmcollege.ac.in/wp-content/uploads/2022/09/Impact-of-domestic-violence-on-chidren-causes-and-prevetivemeausres-P.-Anne-Carolin-and-G.-Gladston-Xavier-pp-32-42.pdf>

Legal Provisions and Protecting Laws

India has developed a solid framework to address domestic violence mainly through the Protection of Women from Domestic Violence Act 2005 and the Indian Penal Code, now Bharatiya Nyaya Sanhita⁶.

The Protection of Women from Domestic Violence Act 2005 mainly focuses on protecting the victims and providing remedies/compensation that help them live the rest of their lives with refinement.

Remedies under this act include -

- 1) Sec 18 - **Protection orders.**
- 2) Sec 19 - **Residence orders.**
- 3) Sec 20 - **Monetary reliefs.**
- 4) Sec 21 - **Custody orders.**
- 5) Sec 22 - **Compensation orders.**

This act provides a wide scope of violence, which not only includes physical violence but also the violence caused by intimidation, coercion, or any other type of mental harm.

The Protection of Women from Domestic Violence Act 2005 primarily focuses on the civil remedies, while the other Bharatiya Nyaya Sanhita, 2023 concerned with any kind of criminal act caused. It recognizes physical violence, mental harassment, or sexual violence caused⁷.

Remedies under Bharatiya Nyaya Sanhita, 2023, are included under

- 1) Sec 85 - **Husband or relative of the husband of a woman subjecting her to cruelty.**
- 2) Sec 115 - **Voluntarily causing hurt.**
- 3) Sec 63 - **Rape.**
- 4) Sec 74 - **Assault or use of criminal force on a woman with the intent to outrage her modesty.**

⁶ **L. Prajapati & A. Singh**, *The Protection of Women from Domestic Violence Act, 2005: A Critical Study of the Constitutional and Other Legal Provisions*, 3 *Int'l J. Civ. L. & Legal Rsch.* 1 (2023), <https://www.civillawjournal.com/article/48/3-1-15-695.pdf>

⁷ **Kapil Dixit**, *Domestic Violence Law in India: Your Rights & Legal Protection*, **Kapil Dixit LLP** (Oct. 24, 2023), <https://kapildixitco.com/domestic-violence-law-in-india/>

Role of Police

Police play a significant role in the effective implementation of the law. They are the first ones to whom the victims approach, and they are also responsible for responding to them. Other than just filing complaints, the police can help the victims in many other ways, including providing legal support, filing domestic violence reports, and making contact with the protective shelters. They are the ones who follow the orders of the court and get the work done on the ground level, like getting a person arrested by executing a warrant. Most police officers are not able to execute their work and are not responsible due to inadequacy of training, lack of female officers, insufficient resources, and considering their own perspectives over matters. It is the police's duty to state that the incident is an act of domestic violence, but they mostly let this act of domestic violence go away, stating that it is a personal/family matter. This reduces their burden of work. They can be considered as agents between the legal system and victims⁸.

Findings/Analysis

Domestic violence is a prevalent issue all over the globe, which extends beyond any culture, class, community, and presently even gender, which was not the case earlier. From the early times, it was considered that domestic violence is only caused by males against females to show their supremacy, and the laws have been made in accordance with protecting women, but nowadays this mindset is changing, and so should the laws. Even though there are legal frameworks for acts of violence, they are gender specific, which likely highlights women as the victims. This legal work has unintentionally created a group of unattended victims. There is a need to reconsider the laws made, which are gender-specific, and do they really uphold the principle of equality before law under our constitution. While the laws in force are working to a great extent to control/prevent domestic violence, as the laws are gender specific, this creates an inequality against the law. While the biased laws are also not used in goodwill, as given in many reports, they are used by many to take revenge or to make the other partner suffer, and some females use these allegations to get a divorce early with a good amount of maintenance, as these kinds of allegations affect the other partner on a larger level. The society, family, friends, and communities criticize the partner for the

⁸M. I. Wahab, *Role of Police in the Implementation of the Protection of Women from Domestic Violence Act, 2005*, 6 *Int'l J. for Multidisciplinary Rsch.* 1 (2024), <https://www.ijfmr.com/papers/2024/6/32873.pdf>

allegations made, which might not even be true.

From the frame of constitution this gender specific laws cant be considered in accordance with the constitution as this laws of prevention somehow do violates the **Article 14** which guarantees Equality before law and **Article 15** which forbids discrimination on grounds only of religion, race, caste, sex, or place of birth or any of them of the Indian constitution as they indirectly reject and do not provide protection the the males⁹. While in a community nowadays, the role of gender has changed explicitly. The powers/responsibilities and the capability have come equal between both genders, and so has the violence. Domestic violence cannot be considered as an act only done by one gender; rather, it should be considered as an act of a person who holds power and authority in a family.

The verdict is that the laws should be more gender neutral and should now not consider the old school mindset and the laws should be up to date as the situation changes in the society and to prevent the misuse all complaints, evidence, witnesses should be properly verified as they can be done for personal reasons and this kind of act can severely affect the other person reputation and the further life left.

Suggestions/Recommendations¹⁰

1) Reform the domestic violence laws to create gender neutral provisions -

The legal provisions should be made fair and equivalent, irrespective of the gender of the victims.

2) Educate the general public and make them aware of the legal importance and consequences of domestic violence -

Information and education should be provided to let the public know that violence can affect both males and females, and also to the victims and the perpetrators. Programs should be held to inform them of the seriousness of this matter and the legal liabilities

⁹A. Coelho, *Gender Equality and the Indian Constitution*, **iPleaders Blog** (Aug. 19, 2023), <https://blog.iplayers.in/gender-equality-and-the-indian-constitution/>

¹⁰M. A. Rashid, *Towards Gender-Neutral Laws: Addressing Biases in the Indian Legal Framework*, **Indian J. L. & Legal Rsch.** (Jan. 9, 2024), <https://www.ijllr.com/post/towards-gender-neutral-laws-addressing-biases-in-the-indian-legal-framework>

associated with such an act.

3) Empower the research and surveys -

To create fair laws and provisions, it is crucial to know the current status of society. Research should be conducted on both genders to gain a comprehensive understanding of the situation from both societal perspectives.

4) Promote and motivate the families and neighbors to intervene in matters of domestic violence -

This will help prevent the victim from further violence, and due to the interference of other members, violence can be prevented at an early stage.

5) Consider the Indian Constitution while creating policies -

The constitution should be considered while making policies. This way, every fundamental right will be kept in mind, and no right will be infringed. Equal treatment and consideration will be given to both genders, and no discrimination will take place.

6) Verification of grievances

All the complaints, witnesses, evidence, and incidents stated should be verified, as nowadays partners do this kind of act for personal gain, divorcing the partner swiftly due to the allegations of domestic violence, which creates a poor image of the other partner.

Conclusion

The condition of domestic violence laws and actions in our country is not in order, even though it is a serious problem all across the country. The reason behind this situation is not that all the victims are invalid, instead the outlook which we Indians have developed against violence, which we still to date clutch with. The belief system sticks to the old beliefs which picture that till date there is only one type of violence which is caused by males who are the abusers and on the victims who are female only, and so are the gender specific laws made. While the realities have changed, we still consider women as the only victims of society. The word abuse is, once in a blue moon, carried out by males against the so-called victims, who are females. There are several other factors, like economic power, alcohol/substance abuse, mental fudging, and hassle between partners, to be considered. Despite all this, our legal system unwaveringly considers women as the only victims. Violence does not affect only females. The legal provisions are supported by most of the females

as they are made for their good, while all the other genders remain unheard. While the other genders are not given importance, the gender specific laws are also used to get a divorce rapidly, in an unjust way to get more maintenance, and also to harm the image of the partner while gaining personal benefit.

These kinds of gender specific laws are surprising in a country whose Constitution supports equality before the law and eliminates discrimination on any ground. While the bedrock of the Constitution assures fairness, the legal system considers and grants privileges to one over the other. If a male has been a victim of violence, he should have the platform to seek justice, and he should be treated the same as the other gender. If any woman reaches out to the court while complaining about domestic violence, she is heard and provided with unfair justice as the laws made are gender-specific. If there is no platform for opposite genders to reach out, and the innocent are still considered abusers, this kind of law should not be implemented, and this needs a major change to ensure fairness. If we still keep on going with these laws and this kind of perception, we are not going to provide justice to the genuine victims. The task that should be carried out further is to reshape and frame the laws that are not gender specific and are neutral for all genders, and laws should be made after considering and researching the laws and their needs at the ground level of the country. The mindset which prevails from years should now be changed, and so should the laws. To prevent the misuse of these laws, validation should be taken. We should always try to maintain and create laws in accordance with the Indian Constitution.

In the present days more than 50% of males out of 1000 have experienced domestic violence either by their wife or their intimate partner. The most common abuse was emotional abuse, followed by physical violence, and the least common type of abuse used was sexual abuse. In the end, this research paper does not claim that males are the only victims and all females take unfair advantage of gender specific laws, but many of them do, which is still undermined. The violence against males is increasing due to non availability of a platform to represent, and unfair advantage is also taken by females for personal gains. Before this becomes a grave issue, even though it is, reforms should be made to bias males to create equality and eliminate discrimination.

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