

Male Victims of Domestic Violence in India- In Quest of Justice

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Abstract: Domestic violence is a significantly serious issue that is inexistence since ancient times. Early literatures and religious texts give the proof of its prevalence in the primitive society. Generally, women are mostly recognised as the victims of domestic violence and are also known as ‘intimate partners violence’ in millennium term from a gender- neutral approach. However, with the changing scenario when women are much empowered due to the enactment of several women- centric laws, it is highly important to acknowledge that domestic violence is not limited to any particular gender. Domestic violence against men becomes a very common issue these days. According to the statistics released by National Crime Record Bureau 2019, the number of men committing suicide is 1.6 times more than the women in a marriage because of marital discords. Surprisingly, in spite of alarming rise in number of suicide cases among married men due to domestic violence, there is no law enacted till date for husbands against intimate violence partner. On the other hand, when a married woman commits suicide within seven years of marriage, her husband and in-laws are brought within the purview of suspicion immediately. Domestic violence affects both men and women equally. The author’s purpose is to point out the unjustifiable sufferings the husbands go through and the adverse steps they take finding no other way out as well as to show the impact of such issues on the society at large.

Keywords: Domestic, Husbands, Intimate Partner, Trauma, Violence.

Introduction

India is believed to be a patriarchal or male-dominated society, thus it is quite difficult to understand that in such society even men can be victims of domestic abuse. Though the history has witnessed several incidents where women were subjected to violence in & out of their house for which there developed a widespread misconception that

domestic violence is gender-specific, directed towards female gender only. But by efflux of time, with the change in time when women are no longer stay within the four corners of their house, claim for equality with men in every sphere, this orthodox mindset of the society regarding their harassment is no longer remain a reality. Men, like women, are also being the victims of gender-based violence in India. Among many such violence, domestic violence is the highest recorded. No doubt several instances are there where the women were seen being tortured, abused or beaten to death by their family members in their very own living space, their home. In fact the words 'Domestic Violence' got its identity from such acts against the women and so also the Act got its nomenclature 'Protection of Women from Domestic Violence (herein shall be stated as DV) Act, 2005'. It is a stereotypical belief that DV is always inflicted on women and men cannot be victims of it, but the reverse view of this notion could be derived from 'National Family Health Survey, 2004'; 'Save Family Foundation (Delhi), 2005-06'.

It is very important to acknowledge that 'crime and criminal mind have no gender'. As the world is changing fast, the socio-cultural, socio-economic independence, shifting of power & control over resources have vastly affected the family system in India. Both men and women are having equal involvement in both domestic and other affairs, as such in domestic violence too. However, in maximum cases a man is always considered as the perpetrator, whereas data shows women could be the abusers as well. According to the National Intimate Partner and Sexual Violence Survey conducted by the Centres for Disease Control and Prevention (CDC) in the United States, in 2010, approximately 1 in 4 women (24.3%) and 1 in 7 men (13.8%) reported experiencing severe physical violence by the intimate partner at some point in their lifetime. This number is nearly increased to 1 out of 3 men (33.6%) in 2015.

Further, to denote that domestic violence does not affect only one gender, National Crime Record Bureau Suicide Report 2020 has given its report basing upon a study conducted by 'Save Family Foundation' that selected 1650 married men aged between 15-50 years using random sampling technic to determine the husband's health and domestic violence. The study recorded 32.8% out of total sample size goes through economic violence followed by emotional violence (22.2%). Around 25.2% & 17.7% of the total interviewed husbands share that they have experienced physical and sexual violence as well. With the stated statistical data and studies, it could be clearly concluded that domestic violence against men is a reality and not unreasonable or illogical. With regards to the NCRB report on rising in number of DV against men, it is necessary to figure out that why and how the men are being harassed physically, mentally, financially and sexually. Moreover, it is essential to recognise the various forms of violence a man goes through in a household as the relationships between cohabitants are taking new dynamics in this modern world is fast changing.

Distinct features of Domestic Abuse

The relationship between the abuser and the perpetrator is distinctive and that relation distinguishes between the other forms of abuse and domestic abuse. Domestic violence, spouse abuse, and intimate partner violence are all terms used to describe abusive behaviour within a relationship that is established within a personal and domestic space. Although these terms are often used interchangeably, they have slightly different meanings.

1. **Domestic violence**

Any kind of physical, sexual, emotional, or psychological mistreatment occurring within a domestic set up is referred as domestic violence. It can include violence between spouses or between parents or between old aged parents and children or between siblings. Domestic violence can occur in between any kind of relationship within a domestic household including husband & wife, parent & children, brother & sister and likewise. In Indian context, 'The Protection of Women from Domestic Violence Act, 2005 (here in after referred as PWDVA)' explains Domestic violence as any type of abusive behaviour either in form of physical, sexual, emotional or economical against a woman taking place within a domestic relationship. The World Health Organization (WHO) defines domestic violence to be any conduct causing physical, sexual or psychological harm, including acts of physical aggression, sexual coercion, psychological abuse, and controlling behaviours within an intimate relationship. This definition recognizes that domestic violence can take many forms and can happen in a variety of relationships, including spouses, partners, parents and children, and other family members. The WHO also emphasizes domestic violence to be an infringement of human rights and a significant issue on public health, with profound physical and mental health consequences for survivors. UNICEF accepts the definition of DV as attributed by The United Nations Declaration on the Elimination of Violence Against Women (1993). It describes 'violence against women' as any kind of gender-related violence that leads to, or has the possibility of resulting in any physical, sexual, or psychological injury or distress to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life'. This definition focuses mainly on the gendered origins of violence & considers violence against women to be one of the most decisive social mechanisms that force women into a lesser position in comparison to men. It broadens not only the meaning of violence to encompass both physical and psychological damage done to women, but also includes the actions committed in private and public life both.

2. **Intimate Partner violence (IPV)**

Intimate partner violence (IPV) is a broader term that recognises violence occurring between romantic partners both presently being in relationship or previously. It includes all kinds of relationship both heterosexual and homosexual

and also recognises all kinds of abuses including physical, sexual, emotional, or psychological. WHO characterizes intimate partner violence (IPV) to be 'any act within an intimate relationship that leads to physical, sexual, or psychological injury, comprising acts of physical aggression, sexual coercion, psychological abuse, and controlling behaviours. It includes all the essential ingredients that required establishing DV. The stated definition by WHO on DV among Intimate partners is also acknowledged by UNICEF³.

3. Spouse abuse

Spouse abuse, on the other hand, specifically refers to violence between spouses. This term is narrower in scope than domestic violence & IPV and only applies to violence occurring between two persons who are either married or in a marriage-like relationship.

The two terms, Intimate Partner Violence and spouse abuse are often used interchangeably to refer to violence between intimate partners or spouses. The United Nations and its organization, like the World Health Organization and the United Nations Children's Fund, use the term 'intimate partner violence' in their definitions and policy recommendations.

However, different countries, organizations, or researchers may use different terms to refer to similar forms of violence. For example, in some contexts, "spouse abuse" may be used more commonly than "intimate partner violence" to refer to violence within marital relationships.

In summary, while all three terms describe abusive behaviour within a relationship, domestic violence covers a wide range of relationships, spouse abuse specifically refers to violence between spouses, and intimate partner violence includes violence between romantic partners. Such violence that are taking place within the domestic sphere is governed by the Domestic Violence Act, 2005 in India and this Act only protects women against any type of DV.

Statutory definition of Domestic Violence

Section- 3 of the Prevention of Women from Domestic Violence Act, 2005, includes such acts as domestic violence-

- a. Physical abuse: Any act or conduct that cause harm, injury or endanger to health, safety, life, limb or well-being of the aggrieved party (who is typically a woman). For example, hitting, slapping, punching, kicking.
- b. Sexual abuse: Any form of sexual violence, including rape, forced sexual acts, and sexual harassment.

- c. Verbal abuse: Using abusive language, name-calling, or threats to intimidate, demean, or control the victim.
- d. Emotional abuse: This includes any act that causes emotional distress, such as insults, humiliation, isolation, and manipulation.
- e. Economic Abuse: Controlling or withholding finances or economic resources to limit the victim's independence and decision-making.

This definition is inspired and ratified from United Nations' Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

International & national Policies concerning Domestic Violence

India's inspiration to enact domestic violence laws came from various international legal instruments, human rights conventions, and the efforts of women's rights groups in India. One of the significant international instruments that influenced the most for the enactment of domestic violence laws in India is the United Nations' Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Convention required the states to adopt effective methods to prevent and eradicate all sorts of unfairness against women, including domestic violence. India ratified CEDAW in 1993 and has since been obligated to implement its provisions.

Additionally, the efforts of various women's rights organizations in India, including the women's movement groups, feminist organizations, and human rights activists, were instrumental in drawing attention concerning the causes of domestic violence and advocating for legal protections against such violence. These groups played a vital role in bringing the issue before the public discourse and pressing on for the enactment of domestic violence laws in India.

Ultimately India enacted the Protection of Women from Domestic Violence Act (PWDVA) in 2005 that offered a legal framework for addressing domestic violence and defending the rights of women. The PWDVA recognizes a range of abuse, comprising physical, emotional, sexual, verbal, and economic abuse as well as grants legal remedies and protection to victims of domestic violence. Moving a step further, the Government of India, set up the National Mission for Empowerment of Women in 2010, to promote gender equality and to address the issues relating to domestic violence. It mainly focuses on strengthening support services, raising awareness and implementing preventive measures. Overall, the enactment of domestic violence laws in India reflects the country's commitment in upholding gender equality, averting violence against women, and protecting the rights of all individuals, regardless of gender.

As per the Statistics released by National Coalition Against Domestic Violence, one in every nine men in the United States is subjected to domestic abuse by his intimate partner or wife & one in every seven males has been physically abused by his spouse or intimate partner. Domestic violence laws in the United States are not inherently women-centric. The laws are designed to protect all individuals who are victims of domestic violence, regardless of their gender. While women are excessively affected by

domestic violence, it is also important to acknowledge that men can also be victims, and the laws are intended to address violence against all individuals in domestic relationships.

The Violence Against Women Act (VAWA), for instance, is often associated with protecting women due to its name, but it recognizes that both women and men can equally fall victims to domestic violence, dating violence, sexual assault, and stalking. VAWA provides funding and support for programs that serve all victims, regardless of gender. Similarly, state laws and initiatives related to domestic violence aim to protect and support all victims, irrespective of their gender. These laws provide legal remedies, support services, and resources for individuals who experience domestic violence, regardless of their gender identity.

In the United Kingdom, men make up two out of every five victims of domestic abuse. This disproves the generally the accepted idea that domestic violence affects exclusively women. Men's Right Campaign group parity, argued that domestic abuse against men gradually goes unchecked and their perpetrators are seldom convicted. Between 2004-05 & 2008-09, 40% of the DV victims were men, as stated by the British Crime Survey.

Judicial approaches

In recent years, taking cognizance of rampant misuse of women-centric laws, the Judiciary in India has become very vigilant while dealing with such issues and in a number of cases has gone down to the extent of punishing the abuser women who have filed fake complaints against their husbands or in-laws.

1. **Rajesh Sharma & others Vs. State of Uttar Pradesh, (2017) SCC Online SC 821.**

The husband and his relations were charged under sec. 498A IPC for torturing the wife for demanding dowry. In the instant case, though the court found the husband responsible for dowry torture, but the entangling of old parents & young siblings were found to be completely baseless. The Hon'ble Supreme Court considering the alarming misuse of Section-498A, IPC that engulfs many innocent persons into its clutches, issued exhaustive guidelines to curb the misuse of Section-498A as follows:

- Establishment of 'Family Welfare Committees' in every district level to look closely into the complaints received under Section-498A.
- Special attentions to be given while dealing with Bail matters considering the veracity of the allegations and necessity for arrest in the interest of justice.
- Appointment of an investigation officer shall be made to investigate into such complaints.
- Cases where settlements have been accomplished shall be disposed off at the earliest and also cases with same parties shall be clubbed.

However, these guidelines will not apply to offences involving tangible physical abuse or death, in case.

2. **Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273.**

In this case the wife alleged of being thrown out of the matrimonial home for her inability to meet the dowry demands of her husband & in-laws. Refuting all the accusations, the husband applied for anticipatory bail before the learned Sessions Judge and being denied there, applied before the High Court. After getting rejected by the High Court also, the plaintiff filed a special leave petition to the Hon'ble Supreme Court.

The Hon'ble Court taking cognizance of the matter, quoted that though offences committed under Section-498A, IPC are cognizable and non-bailable in nature, it is mindlessly used as weapon by the wives rather than using it as a shield for their protections. Such misuse of the Section has significantly resulted in harassment of husbands and his relatives. The court also observed that only husbands and his relatives are not the victims, but aged parents and bedridden grandparents are also charged and arrested under this Section without any prima facie case.

The court established guidelines regarding the arrest made under these provisions:

- No immediate arrests shall be made without any reasonable belief in the veracity of the allegations levelled under Section 498A, IPC & Section 4 of the Dowry Prohibition Act, 1961.
- Magistrates shall also be cautious while handling with such matters.

3. **Manju Ram Kalita Vs. State of Assam, (2009) 13 SCC 330.**

In this case the complaint of cruelty was filed under Section-498A, IPC by the wife against the husband four years after leaving the matrimonial home. The Supreme Court after revisiting all the evidences produced before the trial court, overturned the judgment for not finding any material evidence in support of 'cruelty' as per Section-498A, IPC. Interpreting the definition of 'cruelty', the Court held that cruelty shall be determined basing upon the behaviour of the husband attributing to the intensity of the situations including abetting a woman to commit suicide, among other things.

Further, the court held that the onus lies on the women to prove that she has been subjected to cruelty on continuous basis. Mere quarrel cannot be clarified as 'Cruelty' under IPC.

4. **Sushil Kumar Sharma Vs. UOI, AIR 2005 SC 3100**

In this case a prayer was submitted under Article-32 before the hon'ble Supreme Court to test the constitutionality of Section-498A, IPC and to provide alternative guidelines to limit its abuse. Further, the petitioner also prayed to

execute hard and stringent actions against those women who approach the court with false and vague charges.

The hon'ble Supreme Court citing a number of decided instances held that the legal provision of Section-498A cannot be declared unconstitutional just with the possibility of being misused. Moreover, the purpose of Section- 498A was to combat the dowry menaces, it could not be overruled. The court considering the countless number of cases that have exposed the misuse of Section 498A, IPC stated that it is the work of the law-making body to handle flippant grievances under this Section, and till then the court would work within the recommended parameters of laws.

Defence Mechanism for men against false accusation of Domestic Violence

Legal fraternity truly embraces the Latin Maxim 'Ei incumbit probatio qui dicit, non qui negat' which means innocent until proved guilty. But if we analyse the provisions of matrimonial cruelty and Dowry prohibition, the application of the maxim does not fit well. In most of the cases, the husband his family & relatives are arrested without thorough investigations and also in many cases bail was denied as well until the Supreme Court came up with certain guidelines for arrest & bail to prevent frequent misuse of the statutory provisions.

Nevertheless the husband accused of false allegation by his wife can adhere to the following statutory provisions for his defence:

Section 227, Code of Criminal Procedure, 1973- The section states the situations of Discharge and if the husband has enough proof that the wife is alleging false complaints, he can file an application under this section.

Section 120B, Indian Penal Code- the husband can allege that his wife is committing Criminal Conspiracy against him.

Section 167 & Section 182, Indian Penal Code- These Sections can also be used against the Police officers who refused to file an FIR and/or helped the wife in making a false complaint.

Section 500 & Section 504, Indian Penal Code- The husband can also file a defamation case against his wife as his reputation has been tarnished because of her false accusations.

Domestic Violence and human rights

The WHO emphasizes that domestic violence is not only a human rights violation but also a significant public health issue with far-reaching consequences for individuals, families, and communities. Domestic violence can result in serious physical and mental health problems for victims, including injury, disability, depression, anxiety, and post-traumatic stress disorder. It can also have long-term impacts on children who witness or

experience domestic violence, including developmental delays, behavioural problems, and mental health issues.

Domestic violence also has broader social and economic impacts, such as lost productivity, increased healthcare costs, and reduced economic growth. The WHO recognizes the need for a comprehensive response to domestic violence that addresses the individual, interpersonal, and societal factors that contribute to its occurrence. This includes prevention efforts, early detection and intervention, support services for victims, and legal and policy measures to hold perpetrators accountable and promote gender equality.

Male victims of DV and their mental health.

The psychological toll on men who are falsely accused and subjected to the misuse of laws designed to protect women is significant and often overlooked. In a society like India, traditionally viewed as patriarchal, the notion that men can also be victims of domestic violence or gender-based abuse is a relatively new and uncomfortable realization for many. Historically, the narrative surrounding domestic violence has predominantly centred around women as victims, given the pervasive and long-standing issues of gender-based violence and discrimination. This has led to a widespread belief that domestic violence is a gender-specific issue, where the perpetrator is almost always male, and the victim, female. However, in contemporary society, where women have achieved considerable advancements in equality and independence, the dynamics of domestic violence have evolved. Men, too, can be victims of domestic abuse, including physical, emotional, and psychological harm, and false accusations are a growing concern in this context.

The psychological impact on men who face false accusations can be devastating. For many, the experience of being wrongly accused shatters their sense of self-worth and dignity. The stigma associated with being labelled as abuser can lead to social ostracism, professional setbacks, and strained personal relationships. Even if a man is eventually acquitted or the accusations are proven false, the damage to his reputation is often irreparable. The emotional distress caused by such situations can result in long-term mental health issues, including depression, anxiety, and post-traumatic stress disorder (PTSD).

The emotional toll of being falsely accused is compounded by the legal and social consequences. In many cases, men are arrested without sufficient investigation, as seen in numerous judicial cases such as *Rajesh Sharma v. State of Uttar Pradesh* (2017) and *Arnesh Kumar v. State of Bihar* (2014). These cases highlighted the misuse of Section 498A of the IPC, where husbands and their relatives were wrongfully entangled in legal battles, leading to a growing call for legal reforms to curb the misuse of such laws. The Supreme Court of India has acknowledged the rampant misuse of these provisions, issuing guidelines to prevent the indiscriminate arrest of men based solely on the

allegations of their spouses. Despite these judicial interventions, the process of clearing one's name is often long and arduous, leaving lasting scars on the accused.

Furthermore, the economic and social consequences of false accusations cannot be overlooked. Men often face financial strain due to legal fees, lost employment opportunities, and the stress of prolonged legal battles. In some cases, men may be compelled to pay alimony or settle financially with their accusers, even when the accusations are unfounded. This creates a situation where men are not only emotionally and mentally drained but also economically disadvantaged. The psychological impact of losing one's financial stability can exacerbate feelings of helplessness and despair.

In addition to the personal and economic consequences, false accusations can have a broader societal impact. When laws designed to protect the vulnerable are misused, it undermines the credibility of genuine victims and weakens the overall effectiveness of the legal system. Women who genuinely suffer from domestic violence may face greater scrutiny and disbelief if the prevalence of false accusations continues to rise. This undermines the progress made in protecting women from abuse and shifts the focus away from real victims to those who misuse the system for personal gain.

In conclusion, while the issue of violence against women remains a critical concern, it is equally important to acknowledge the mental and emotional toll on men who are falsely accused of domestic violence. The misuse of protective laws not only harms innocent men but also undermines the fight against genuine cases of abuse. Men who face false accusations experience significant emotional, psychological, and financial distress, and the legal system must adapt to ensure that justice is served fairly and impartially. It is crucial to promote a balanced understanding of domestic violence, recognizing that both men and women can be victims, and to implement safeguards to prevent the misuse of gender-specific laws. Only then can we achieve true equality and justice for all individuals, regardless of gender.

Conclusions

Any act of domestic violence is never an acceptable behaviour from the perpetrator. The responsibility for domestic violence lies solely on the person committing the crime. However, it is high time to approach domestic violence cases from a gender-inclusive perspective, recognizing that anyone can be a victim and that everyone deserves equal protection and support under the law of the land. Society's understanding of domestic violence has evolved over time leading to increased recognition and response to the experiences of all victims, regardless of gender. It can happen to anyone, regardless of their gender, age, race, or socio-economic status.

Domestic violence is a serious and pervasive problem that affects millions of people around the world. It can cause long-lasting physical and emotional harm to victims, and can also have serious consequences over the children who witness it. Men who experience domestic violence may face social and cultural barriers in seeking help, as the issue is often perceived as being one that primarily affects women. As a result, men

who experience domestic violence may be reluctant to report the abuse and may feel stigmatized or ashamed. This can make it challenging for them to access the support and resources that are available to victims of domestic violence. It is, therefore, the need of the hour for the legislatures to think of alternatives to prevent the abuse of domestic violence laws and to extend justice for all the victims irrespective of any gender.

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