

# DOMESTIC VIOLENCE IN INDIA WITH SPECIAL EMPHASIS ON PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005

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## ***Abstract***

*In rural areas, poverty and a lack of information represent real barriers to women's independence and empowerment. Historically, domestic violence was understood as a concerning threat to women's lives in India driven by the Dowry system. The most common type of spousal violence is physical violence (28%), followed by emotional violence and sexual violence. National Commission for Women (NCW) said that domestic violence cases have been increasing in India. Domestic violence including harassment, maltreatment, brutality or cruelty and even the threat of assault-intimidation. Domestic violence, also known as domestic abuse, spousal abuse, battering, family violence, and intimate partner violence (IPV), is defined as a pattern of abusive behaviours by one partner against another in an intimate relationship such as marriage, dating, family, or cohabitation. The present paper deals with the various forms of domestic violence prevalent in India with special emphasis on Protection of Women from Domestic Violence Act 20025.*

**Key Words:** Domestic Violence, Protection of Women, Act, National Commission for Women, Dowry system, etc

## Introduction

In Indian society, women are traditionally discriminated against and excluded from political and family related decisions. Despite the large amount of work women must do on a daily basis to support their families, their opinions are rarely acknowledged and their rights are limited. From the time they are born, young Indian girls are the victims of discrimination. According to a 2005 report from the Indian Ministry of Health and Family Welfare, the infant mortality rate among girls is 61% higher than that for boys. This gender inequality is also present in education, only 2/3 of girls between the ages of 6 and 17 are sent to school, compared to ¾ of boys of the same age. Also, in the countryside, only 46% of women are literate, which is almost one-half the literary rate for men. Instead of going to school, girls often find themselves forced to work in order to help their families, often from a very young age.

Even more worrisome, 25% of women marry before the age of 15 and very often, they marry against their will. This has profound consequences, notably on women's health and their precarious situation often prevents them from receiving proper health care. For many Indian women, poor treatment, violence and exploitation take place on daily basis. However, in the last decades, the situation of women in India has greatly improved. An increasing number of Indian women are entering local and national politics and since 2007, the country has been under the rule of a woman, Pratibha Patel. She is the first woman to hold this position since the creation of the Indian Republic in 1950.

Indian society does indeed recognize many women's rights, including the rights to political involvement, family allowance and set up a business. Nevertheless, in rural areas, poverty and a lack of information represent real barriers to women's independence and empowerment. Programmes aimed at advancing human rights, literacy and microfinance are therefore necessary in order to restore Indian women to the place they deserve and open doors to a better future.

About a quarter of Indians (23%) say there is "a lot of discrimination" against women in their country. And 16% of Indian women reported that they personally had faced discrimination because of their gender in the 12 months before the 2019-2020 survey. In addition, three quarters of adults see violence against women as a very big problem in Indian society. To improve women's safety, about half of Indian adults (51%) say it is more important to teach boys to "respect all women" than to teach girls to "behave appropriately". But roughly a quarter of Indians (26%) take the opposite position, effectively placing the onus for violence against women on women themselves.

On the whole, however, Indians seem to share an egalitarian vision of women's place in society. Eight-in-ten people surveyed- including 81% of Hindus and 76% of Muslims say it is very important for women to have the same rights as men. Indians also broadly accept women as political leaders, with a majority saying that women and men make equally good political leaders (55%) or that women generally make better leaders than men do (14%). Yet these views exist alongside a preference for traditional economic roles. Indians generally agree that when there are few jobs available, men should have more rights to a job than women (80%), including 56% who completely agree with this statement. Majorities of both men and women share this view, though men are somewhat more inclined to take this position.

A longitudinal research study by BMC Women's Health analysing trends and lesson on domestic violence faced by Indian women from 2001 to 2018 has highlighted that India needs to focus efforts to reduce the gaps in the administrative data which includes underreporting and almost stagnant data over the time. Between 2001 and 2018, the majority of the domestic violence cases were filed under "cruelty by husband or his relatives", with the reported rate of the crime increasing by 53% over 18 years. The study has also highlighted that the rate of cases of cruelty by husbands or relatives was 28.3 per 1, 00,000 women to 2018, which is an increase of 53% from 2001. The rate of reported dowry deaths and abetment to suicide was 2% and 1.4% respectively, in 2018.

The data analysed by the researchers was extracted from the annual reports of the National Crimes Record Bureau (NCRB) under for domestic violence crime headings-cruelty by husband or his relatives, dowry deaths, abetment to suicide, and protection of women against domestic violence act. A total of 1,548,548 cases were reported under cruelty by husband or his relatives in India from 2001 to 2018, with 554,481 (35.8%) between 2014 and 2018. The reported rate of this crime in India was 18.5 in 2001 and 28.3 in 2018 per 1, 00, 000 women aged 15-49 years, marking a significant increase of 53% over this period. Wide variations were seen in the rate for reported cruelty by husband or his relatives in 2018 at the state-level.

Rate of reported cases of cruelty by husband or relatives in India was 28.3 (95% CI 28.1-28.5) in 2018, an increase of 53% from 2001. State-level variations in this rate ranged from 0.5 (95% CI 0.05 to 15) to 113.7 (95% CI 111.6-115.8) in 2018. Rate of reported dowry deaths and abetment to suicide was 2.0 (95% CI 2.0-2.0) and 1.4 (95% CI 1.4-14) in 2018 for India, respectively. Overall, a few states accounted for the temporal variation in these rates, with the reporting stagnant in most states over these years. The NCRB reporting system resulted in underreporting for certain crime headings. The mean number of people arrested for these crimes had decreased over the period. Only 6.8% of the cases completed trials, with offenders convicted only in 15.5% cases in 2018.

The NCRB data are available in heavily tabulated format with limited usage for intervention planning. The non-availability of individual level data in public domain limits exploration of patterns in domestic violence that could better inform policy actions to address domestic violence. Delhi, Assam, West Bengal, Arunachal Pradesh, Meghalaya and Jammu and Kashmir documented more than 16% increase in this reported crime rate during 2001-2018. The greatest decline in the rate of this reported crime was seen in Mizoram, 74.3% from 2001 to 2018.

Historically, domestic violence was understood as a concerning threat to women's lives in India driven by the Dowry system. Therefore, the earliest legislations in the country to stop violence leading to so-called "dowry deaths" were implemented through an amendment to the Dowry Prohibition Act (1961). Section 304B of the Indian Penal Code criminalised any form of violence with respect to dowry demands by a husband or in-laws. As feminist scholarship and activism evolved, inter-disciplinary studies gave more clarity to the multi-faceted range of causes of spousal and family violence and their impacts on women. Through the years, domestic violence has remained among the gravest threats to women in India, despite being defined as a criminal offence under section 498A of the Indian Penal Code in 1983.

A dedicated civil law, The Protection of Women from Domestic Violence Act, 2005 (PWDV), was eventually introduced to provide immediate relief to aggrieved women in a

household who may be subjected to abuse by their husbands and in-laws. Today domestic violence continues to be a widespread occurrence across India, cutting across caste, class, religion, age, and education. NFHS surveys from 2006 to 2019 have found consistently increasing incidence of spousal violence in India, particularly in certain regions. States like Himachal Pradesh, Sikkim, Maharashtra, and newly formed union territories (UTs) of Jammu and Kashmir, and Ladakh showed a declining pattern during 2015-16, only to increase markedly again in 2019. There are states like Karnataka, for example, which are particularly concerning for the persistently increasing percentage of women experiencing domestic violence. Recent data on states from the fifth NFHS (2019-21) show the states that continue to have the highest rates of spousal violence in the country: Karnataka, Bihar, and Manipur.

Nearly one-third of women in India have experienced physical or sexual violence, finds the National Family Health Survey-5 report. While domestic violence against women has declined from 31.2% to 29.3% in the country, 30% women between the age of 18 and 49 have experienced physical violence since the age of 15 years, while 6% have experienced sexual violence in their lifetime, finds the report that was released by Union Health Minister Dr Mansukh Mandviya. Only 14% of women who have experienced physical or sexual violence by anyone have brought the issue up. The survey finds that 32% of married women (18-49 years) have experienced physical, sexual, or emotional spousal violence.

The most common type of spousal violence is physical violence (28%), followed by emotional violence and sexual violence. Domestic violence against women is highest in Karnataka at 48%, followed by Bihar, Telangana, Manipur and Tamil Nadu. Lakshadweep has the least domestic violence at 2.1%. The experience of physical violence is more common among women in rural area (32%) as compared to their counterparts in urban areas (24%) and a woman's experience of violence declines sharply with increased schooling and wealth both for the female victim, as well as the male perpetrator. The survey says, 40% women with no schooling are subject to physical violence compared to 18% who completed their schooling. The experience of physical violence ranges between 39% among women in the lowest wealth quintile and 17% in the highest wealth quintile.

In over 80% cases of physical violence against women, the perpetrator is the husband. Husbands who have completed 12 or more years of schooling are half as likely (21%) to commit physical, sexual, or emotional spousal violence as those with no schooling (43%). Experience of spousal physical or sexual violence varies greatly with the level of the husband's alcohol consumption. 70% of women whose husbands often get drunk have experienced spousal physical or sexual violence, compared with 23% of those whose husbands do not drink, says the report. The report finds that women in the 40-49 age bracket experience more violence than those in the 18-19 category.

The number of complaints filed with the National Commission for Women in 2022 have reached 17, 348. The Right to live with dignity saw the most complaints with 5593, followed by 3792 complaints under the Protection of Women against Domestic Violence. According to the data the complaints of police apathy against women were at 896. These numbers make it clear that solutions like the One Stop Centres (OSCs), launched in 2015 with an aim to support women facing physical, sexual, emotional, psychological and economic abuse are required. Yet while Delhi has 11 centres, West Bengal has none, and Uttar Pradesh

with its highest number of crimes against women reported has 75. In total, out of 758 approved One Stop Centres, 708 are functional in 35 States and Union territories.

The Minister of Women and Child Development Smriti Irani while responding to questions in Lok Sabha, informed that during the 15 Finance Commission cycle i.e., 2021-22 to 2025-26, the Government has decided to setup 300 more OSCs, in a phased manner, in the districts having larger geographical area or high rate of crime against women. The centres give assistance to women by providing access to services like emergency response and rescue, medical assistance, assistance to women in lodging complaints, psycho-social support or counselling, legal aid, shelter, amongst others. Take the case of the Capital city Delhi, where 11 OSCs are currently present. The National Crime Records Bureau data from 2020 shows that the national capital had a total of 10,093 cases of crimes against women.

OSCs provided help in these cases but focused on those related to dowry, and domestic abuse. Delhi registered 110 cases of dowry deaths under Sec. 304B IPC. In terms of Cruelty by husband or his relatives (Sec. 498A IPC) there were a total of 2,557 cases registered. The NCW data for 2022 shows that from Delhi it received 265 complaints against harassment of married women for dowry and also six cases of dowry deaths. According to the National Commission for Women the total complaints received in Delhi till now in 2022 has reached 1,771, including 83 of police apathy. One Stop Centres (OSCs) are intended to support women affected by violence, in private and public spaces, within the family, community and at the workplace. In Uttar Pradesh, where NCW has registered the highest number of complaints this year with 9,344, a total of 375 complaints were registered against police apathy.

Out of all the states and union territories, Uttar Pradesh has the greatest number of OSCs with 75. Government data also shows that from April 1, 2015 to March 31, 2021 the centres in UP had assisted 1,57,620 women and further 9,688 women from April 1, 2021 to September 30, 2021. UP had a total of 2,274 dowry deaths reported according to the NCRB data from 2020. But West Bengal has a high number of crimes against women with 36,439 from 2020, yet zero centres. The dowry deaths, under IPC section 304B were 522, cases under cruelty by husband or his relatives (Sec. 498A IPC) saw 19,962 cases registered. In the year 2022, West Bengal has seen a total of 356 complaints registered with the NCW. Last year, the BJP had urged the West Bengal minister for child and women welfare Shashi Panja to launch centres- the State has the approval to get 23 OSC built.

Bar, which reported 15,359 of crimes against women in 2020 has 38 centres. These cases include IPC 498A which has 1,935 registered cases and 1,046 dowry deaths. In Tamil Nadu, where there are 38 centres, the total crime against women reported from 2020 was 6,630. There were a total of 689 cases registered under section 498A, and 40 dowry deaths. Madhya Pradesh which is second in having the greatest number of centres at 52, after UP, the NCRB data shows that 25,640 were the total crimes committed against women in 2020, out of which IPC 498A were 5,540 and 608 dowry deaths. In that same way, Rajasthan has many more cases of crimes against women reported in comparison to Madhya Pradesh, with 34,535 according to the NCRB has just 33 centres. The cruelty by husband or his relatives (IPC 498A) has seen 13,765 cases and 479 related to dowry death.

The NCRB report also shows that the rate of crime against women (the number of incidents per 1 lakh population) increased from 56.5 per cent in 2020 to 64.5 per cent in 2021. Categories of crime: (31.8 per cent) fall in the category of "Cruelty by husband or his relatives",

followed by “Assault on women with intent to outrage her modesty” (20.8 per cent), kidnapping and abduction (17.6 per cent), and rape (7.4 per cent). The report places Uttar Pradesh on top (56,083) in terms of the actual number of cases registered in 2021, Nagaland stood out with the lowest number of crimes against women registered in the past three years. Only 507 cases were registered in the country under the Domestic Violence Act in 2021- 0.15% of the total cases of crime against women, showing an under-reporting of cases.

### **Major provisions of the “Protection of Women from Domestic Violence Act, 2005”**

Countries, including India, had adopted the Universal Declaration on Human Rights (1948) and the Convention on the Elimination of All Forms of Discrimination to protect women from any kind of violence. India had taken many human rights in their constitution from these documents like the right to equality, life, freedom of expression, right to marry, the state cannot discriminate based on sex, etc. Violence is the major problem of the world which affects the human rights of a woman. It also impacts the mental health of women. Domestic violence is one of the significant types of violence. Domestic violence is also called “domestic abuse” or “intimate partner violence”. It means a pattern of behaviour in any relationship used to gain or maintain power and control over an intimate partner. It includes domestic abuse, economic abuse, sexual abuse, and physical abuse.

Recently the National Commission for Women (NCW) said that domestic violence cases have been increasing in India. In most domestic violence cases, men are the perpetrator, and women are the victims. The Constitution of India and the legislatures have given various laws and protections to women; still, they face domestic violence. The Protection of Women from Domestic Violence Act, 2005 was passed by the Indian Parliament in the year 2005 i.e., an Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. The DV Act came into force on 26<sup>th</sup> October 2006. DV Act is a civil law remedy to the affected women in their matrimonial life. The higher judiciary in India i.e., the Supreme Court and High Courts in India have made some significant interventions and interpretations in the operation of this law.

### **DOMESTIC VIOLENCE**

Domestic violence including harassment, maltreatment, brutality or cruelty and even the threat of assault-intimidation. It includes physical injury, as well as ‘will fully or knowingly placing or attempting to place a spouse in year of injury and compelling the spouse by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse has a right to abstain. Domestic violence includes not only inter-spousal violence, but also violence perpetrated by other family members. Generally an important part of the power relationship between spouses and their families relates to dowry and its ramifications.

Women are more likely to be victimized by someone that they are intimate with, commonly called “intimate partner violence” or (IPV). The impact of domestic violence in the sphere of total violence against women can be understood through the example that 40-70% of murders of women are committed by their husband or boyfriend. Studies have shown that violence is not always perpetrated as a form of physical violence but can also be psychological and verbal. In unmarried relationships this is commonly called dating violence, where in the

context of marriage it is called domestic violence. Instances of IPV stand not to be reported to police and thus many experts believe that the true magnitude of the problem is hard to estimate. In 2005, 1181 women, in comparison with 329 the men, were killed by their intimate partners.

Domestic violence, also known as domestic abuse, spousal abuse, battering, family violence, and intimate partner violence (IPV), is defined as a pattern of abusive behaviours 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 there of sexual abuse emotional abuse; controlling or domineering; intimidation; stalking passive/covert abuse (e.g., neglect) and economic deprivation. Alcohol consumption and mental illness can be co-morbid with abuse, and present additional challenges in eliminating domestic violence. Awareness, perception, definition and documentation of domestic violence differ widely from country to country, and from era to era. Domestic violence and abuse is not limited to obvious physical violence. Domestic violence can also mean endangerment, criminal coercion, kidnapping, unlawful imprisonment, trespassing, harassment, and stalking.

In our society, violence is bursting. It is present almost everywhere and nowhere is this eruption more intense than right behind the doors of our homes. Behind closed doors of homes all across our country, people are being tortured, beaten and killed. It is happening in rural areas, towns, cities and in metropolitans as well. It is crossing all social classes, genders, racial lines and age groups. It is becoming a legacy being passed on from one generation to another. The term used to describe this exploding problem of violence within our homes is “Domestic Violence”. This violence is towards someone who we are in a relationship with, be it a wife, husband, son, daughter, mother, father, grandparent or any other family member. It can be a male’s or a female’s atrocities towards another male or a female. Anyone can be a victim and a victimizer. This violence has a tendency to explode in various forms such as physical, sexual or emotional.

Since times immemorial, domestic violence has been an intrinsic part of the society we are living in. The contributing factors could be the desire to gain control over another family member, the desire to exploit someone for personal benefits, the flare to be in a commanding position all the time, showcasing one’s supremacy so on and so forth. On various occasions, psychological problems and social influence also add to the vehemence. The present paper deals with the various forms of domestic violence prevalent in India. Their causes of occurrence in households have been analysed categorically. The variation in the intensity of the forms with change in the geographical location and culture has also been addressed. The after effects of different kinds of domestic violence and the possible remedies have been highlighted.

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