

**AN INSIGHT TO THE ISSUE OF DOMESTIC VIOLENCE AGAINST  
MEN IN INDIA: A CALL FOR GENDER – NEUTRAL LAW**

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**ABSTRACT**

*India is said to be a country which strive to promote equality in every sphere and the same has been reflected in the Preamble of Indian Constitution. However, in reality, there are various areas to be worked on. One of such areas is Domestic violence. India has ample number of laws concerning to domestic violence against women. However, the same approach has not been followed with respect to the domestic violence against men. Men are always considered superior in the Indian society. Hence, many of us think that they cannot be victims of crimes like domestic violence. But the fact is men are also victims of the practice of domestic violence. However, this area has been discussed by few only. Hence, this paper is an attempt to highlight rights infringement and abuses experienced by men. Further, the paper shall deal with socio - legal aspect of abovementioned topic.*

**Keywords:** Domestic violence, men, abuses, socio-legal, victims, India etc.

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## I. INTRODUCTION

India is a patriarchal society where women are categorized as vulnerable group. However, the same approach has not been followed with respect to male members of the society. Most of the members of Indian society is very certain that men cannot be target of offences like Men are the victims of domestic abuse, while women are the culprits.<sup>1</sup>

Indian society tends to believe that this kind of offences are happen to occur only with respect to women. If any woman is a victim of such practice, then such news spreads like a fire. But male, being considered as superior by society, cannot talk about domestic violence even if they are the victims of the same. Therefore, men prefer to remain silent and continue to suffer in silence. Even, the law – making body in India neglects this aspect. As a result, many laws are enacted to protect women and not men. The prime instance of the same is the Domestic Violence Act, 2005, which is a major act in this area.<sup>2</sup>

The notion of domestic abuse is not novel so far as it relates to women. However, the same is not true with regard to men. The term domestic violence refers to practice of causing harm to any person within domestic sphere. Domestic violence, as per the United Nations Office of Violence Against Women, is a type of violence used by one spouse in a relationship to obtain or maintain control over another intimate partner.<sup>3</sup>

It includes violence in every aspect be it corporeal, emotional, sexual economic or mental. Domestic abuse can affect people of any ethnicity, age, sexual orientation, religion, or gender. It can happen in any type of relationship, including married, cohabiting, and dating relationships. Domestic violence affects people from all walks of life and all educational levels.<sup>4</sup> Hence, men are no exception.

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<sup>1</sup> Jagbir Singh Malik and Anuradha Nadda, A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India, Indian Journal of Community Medicine, Jan – Mar. 2019 Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/#:~:text=Out%20of%201000%2C%20males%2051.5,cases%2C%20physical%20assaults%20were%20severe> (last visited on Feb. 16, 2023).

<sup>2</sup> Available at: <https://www.daaman.org/post/the-issue-of-domestic-violence-against-men-in-india> (last visited on Feb. 16, 2023).

<sup>3</sup> Available at: <https://www.findlaw.com/family/domestic-violence/what-is-domestic-violence.html> (last visited on Feb. 16, 2023).

<sup>4</sup> *Ibid.*

## II. DIFFERENT CLASSES OF DOMESTICE VIOLENCE

The different kinds of household abuse that can be committed against men are as follows:

1. **Physical Violence:** it refers to act of violence which is corporeal in nature. Men can be subjected to bodily injury, be it with hand, belt, stick etc. Slapping is the most usual method of physical violence.<sup>5</sup>
2. **Emotional violence:** injuries are not always in the form of some body marks. The most hurtful violence is emotional violence where victim started questioning his/her worth. Under this category of violence, victims are subjected to insult, embarrassment and condemnation. It is very difficult to ascertain this type of violence as in any relationships the essence of emotional violence is considered to be common. Hence, victims continue to suffer dilemma.<sup>6</sup> In fact, in most areas emotional violence is not recognized as domestic violence. To held any person liable for this sort of household abuse, any supplementary form of domestic violence like corporeal abuse should be accompanied.
3. **Sexual violence:** men are being subjected to sexual violence as well in matrimonial houses. Sexual violence includes
  - i. the cases of involuntary sexual intercourse.
  - ii. any sexual act that is intended to exploit, degrade, or damage individual, or that is otherwise degrading to honor, or any other undesired sexual action.
  - iii. individuals are compelled to view pornography or other obscene images or materials.<sup>7</sup>

However, there is hardly any data available. There is always this question: can men be victim of sexual violence? This is the sad reality of our society.

4. **Economic violence:** economic violence means control of another person's financial resources or economy.<sup>8</sup> Harassing the victim at work, theft, and the victim's punishment with physical or sexual violence due to improper accounting of funds in monetary form

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<sup>5</sup> Sanjay Deshpande, "Sociocultural and Legal Aspects of Violence Against Men", *Journal of Psychosexual Health*, Dec. 2019, *Available at:* <https://journals.sagepub.com/doi/full/10.1177/2631831819894176> (last visited on Feb. 16, 2023).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Available at:* <https://ipc498a.files.wordpress.com/2007/10/domestic-violence-against-men.pdf> (last visited on Mar. 3, 2023).

<sup>8</sup> *Available at:* [https://link.springer.com/chapter/10.1007/978-3-030-03994-3\\_1](https://link.springer.com/chapter/10.1007/978-3-030-03994-3_1) (last visited on Apr. 3, 2023).

are all examples of economic abuse. Abuse affects people of all financial levels. Economic exploitation is a type of emotional exploitation.<sup>9</sup>

### **III. INDIA'S STATISTICAL DATA ON DOMESTIC VIOLENCE AGAINST MEN**

In India, it's difficult to find a concrete data on this topic in contrast to its cases relating to women, where data is readily available. It has been found on the consequences of a survey carried on 1000 married males in rural Haryana villages ranging in age from 21 to 49 years old, gender-based violence affects 52.4 percent of married men in India. 51.5 percent of males have been imperiled to some class of torture or abuse by their mates or close partners at some point in their lives. 10.5 percent of men have been sufferers to gender-based violence by their mates or close partners in the previous year. The most common form of marital or domestic violence against men is emotional abuse, followed by physical abuse in second.<sup>10</sup>

### **IV. REASONS FOR UNREPORTED CASES ON DOMESTIC VIOLENCE AGAINST MEN**

#### **1. STEREOTYPES ABOUT MEN AND WOMEN**

Gender stereotypes are stereotypes about what a male or female should do or be like. These roles are not innate to them, but they are gradually learnt and enforced by society's social conditions. India is a country ruled by men from time immemorial, and it is widely considered as shameful event when a man being beaten by a woman.

Women are viewed as weak, inferior, and suffocated in a male-dominated society across the country. Males are also stereotyped as strong, self-centered, and insensitive.

Men are frequently hesitant to disclose about the suffering they encounter as they are feared of being stigmatised and branded as weak and feminine. They believe that their fight against violence will be unsuccessful and the reason for the same is gender – biased laws in the subject – matter.<sup>11</sup> Additionally, there is general societal outlook that men who cry is weak and womanlike. Hence, resulted in unreported cases of domestic violence. Masculinity is being given highest place in the society.

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<sup>9</sup> Available at: <https://dc.etsu.edu/cgi/viewcontent.cgi?article=2448&context=etd> (last visited on Apr. 3, 2023).

<sup>10</sup> Available at: <https://blog.ipleaders.in/domestic-violence-men-india/> (last visited on Apr. 3, 2023).

<sup>11</sup> Available at: [https://lawsuperior.com/domestic-violence-against-men/#\\_ftn2](https://lawsuperior.com/domestic-violence-against-men/#_ftn2) (last visited on Apr. 3, 2023).

## 2. INSTITUTIONAL OBSTACLE

Because there is a widespread belief that men can never be victims of the horrible crime of domestic violence, there is no recourse available. The stereotyped roles and societal shame associated with gender have spawned a slew of gender-specific legislation that offers little recourse to male victims.<sup>12</sup> There are countless organizations and institutions fighting for female rights, but there are few such groups fighting for male rights. Males face institutional discrimination that prevents them from filing complaints about domestic abuse.<sup>13</sup>

## 3. MALES IN DENIAL

Gender norms combined with gender-specific regulations lead the majority of men to assume that domestic violence only affects women. Even a man with this mindset believes he will never be a victim of this crime. So, even if they are on the receiving end, they are unlikely to realise they stand as victims of such incidents.<sup>14</sup> Additionally, in India, there is a pervasive misunderstanding that household abuse is limited to physical violence. So, whether a man is subjected to economic, sexual, or emotional abuse, he is unlikely to recognise that he is being mistreated and will continue to live in denial.<sup>15</sup>

## 4. WOMEN – CENTRIC LEGISLATION

Many gender-specific regulations are the result of gender biases and stereotypes. Gender-specific laws are those that are limited in scope and can only be invoked by a single gender type. The Government can make legislation involving the empowerment of women or children, according to article 15 (3) of the constitution. One such exception is Section 498 - A of the Indian Penal Code. The Criminal Law (Second Amendment) Act of 1983 added Section 4898A to the IPC. A guy is liable for cruelty to his wife under section 498 - A of the Indian penal code. There are almost no legal clauses in the Indian penal code that deems women responsible if they are cruel to their husbands. This is based on a fundamental assumption that sin of cruelty to another partner in matrimony could only be committed by males and not by females, according to this

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<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

provision. Assumptions like this go against our Constitution's essential ideals of individual equality and dignity.<sup>16</sup> There are plenty of fake situations where ladies dishonestly asserted a man for assault or aggressive behavior at home as a result of one-sided provisions in the Indian Penal Statute and various laws that favour ladies, and interestingly, these one-sided laws naturally accept that a man can never be the victim.<sup>17</sup> Lately, there has been an increase in false instances in which certain legal rules have been misapplied to falsely accuse men or their family members for personal vendetta or ulterior motivations. The Apex Court in India stated in *Sushil Kumar v. Union of India*<sup>18</sup> that section 498A was enacted to serve as a shield to guard womenfolk from domestic abuse, and that it shouldn't be used as a weapon to harass men or to wreck personal retribution. Further, the Court went on to say that abusing Section 498A is "legal terrorism." In the instance of *Rajesh Sharma v. The State of UP and Anr*<sup>19</sup>, the Court of law directed law enforcement agency not to arrest the accused under this clause immediately away if any complaint was made against them. The officials' first task would be to verify the truth of the charges.

Though the judiciary has taken a progressive approach in a few cases, as discussed above, there is still work to be done. The Indian constitution prohibits discrimination between men and women, and it places both genders on an equal footing. Every person of the country has like rights and liberties in the eye of law. So, where is the inconsistency, in the word or spirit of the Constitution?<sup>20</sup>

## **V. A CRITICAL STUDY OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 IN INDIA'S LEGAL FRAMEWORK RELATING TO DOMESTIC VIOLENCE**

In India, the major act concerning domestic abuse is the Protection of Women from Domestic Violence Act, 2005. However, the said act remains shelter only for women victim. This can be witnessed from the name of the act itself wherein the term "women" is specifically being used. Moreover, Section 3 of the Protection of Women from Domestic Violence Act, 2005 defined

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<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> Writ petition No. 141 of 2005.

<sup>19</sup> Criminal Appeal No. 1265 of 2017

<sup>20</sup> *Supra* note 11.

the term “Domestic violence” as “any act, omission or commission or conduct of the Respondent shall constitute domestic violence in case it –

- a. harms or injures or endangers the health, safety, life, limb or well-being whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- b. harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- c. has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in Clause (a) or Clause (b); or
- d. otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”<sup>21</sup>

As per the Act, the term “respondent” has been defined to comprise only men as perpetrator of crime of domestic violence as in the definition section under Section 2(q), it has clearly used the term “any adult male person”. Hence, as per the definition, respondent can be husband himself or any relatives of the husband. Therefore, the definition of perpetrator is male – centric. Likewise, the definition of the expression “aggrieved person” is female – centric which is being reflected in its definition as provided in Section 2(a). It says that “aggrieved person” means any females in heterosexual relationship and where she remains exposed to any act of domestic abuse whether it be sexual, physical, emotional etc. Hence, the definition looks only women as the prey of domestic abuse outrightly ignoring men in addition to LGBTQ community as well, who are equally victims of domestic abuse in their household relationship. Hence, the Act depicts the wrong picture of the very act of domestic violence.<sup>22</sup>

Again, a female can bring a lawsuit against any family member in addition to her husband as per Section 2(f) of the Act. This includes her own parents, siblings, and relatives of her spouse who live in the same residence. Even if the notion that wives do not inflict domestic abuse on their husbands is accepted, other family members, particularly dads and elders, continue to abuse men.

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<sup>21</sup> The Protection of Women from Domestic Violence Act, 2005, S. 3.

<sup>22</sup> Available at: <https://www.ijlmh.com/wp-content/uploads/Critical-Analysis-of-Domestic-Violence-A-Gender-Neutral-Study.pdf> (last visited on May 3, 2023).

Furthermore, Section 498 - A of the IPC, which deals with the law of Cruelty, states: "Whoever, being the husband or a relative of the husband of a woman, treats such woman to cruelty shall be punished with imprisonment." This basically states that only females are sheltered from domestic violence as per the clauses of the law. So, even if a man attempts to overcome cultural shame by turning to the law, his options for legal recourse are severely limited. Even the law enforcing authority i.e., police question his masculinity, mocking him for not being "man enough." Even members of the LGBTQ community are barred from seeking justice if they are sufferer of such act.<sup>23</sup>

Furthermore, in the Indian legal framework rape of men and transgender are not recognized. Our Criminal laws make no clause to safeguard them from rape by males or women.<sup>24</sup>

In India, everyone is said to have the right to life and personal liberty under Article 21. This comprises the right to be free of violence and the right to be treated with honor. As these rights are accessible by everybody, hence, men and the LGBTQ community cannot be an exception of the same. Therefore, they ought to be safeguarded against rape and household abuse. However, it just remains in the statute book.

A positive approach has been attempted by our Apex Court in *Hiral P. Harsora v. Kusum Narottamdas Harsora*,<sup>25</sup> by ruling that the terms "adult male" should be eliminated from Section 2(q) of the Domestic Violence Act, 2005 in order to promote gender equality. As a result, it broadens the Act by allowing a complaint to be filed against a female counterpart as well, allowing a woman to file a complaint against both male and female family members. However, because Section 2(q) of the Protection of Women from Domestic Violence Act of 2005 only applies to the respondent, this judgement does not apply to menfolk who are sufferers of domestic abuse.

Hence, above discussion made it clear that the law is bias towards men. Even the Apex Court has evaluated the clauses of these laws as antiquated and unfair in light of recent events including domestic abuse against males, rape of men, and adultery committed by women. These laws are sexist, as they only see women as victims. These laws must be changed to provide room for both men and women. In *Joseph Shine v. Union of India*,<sup>26</sup> the Hon'ble

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<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> (2016) 10 SCC 165.

<sup>26</sup> (2019) 3 SCC 39.



Supreme Court, in a decision written by Justice D Y Chandrachud, stated that the laws prohibiting adultery are biased against men and that they must be changed. Domestic abuse laws are also discriminatory since they exclusively acknowledge women as victims. There is still more work to be done in India to make its laws gender-neutral. There are, in reality, some countries like United States of America, England etc. which recognizes the offence of domestic violence irrespective of sex.<sup>27</sup> Hence, the time has come for India as well to apply the same approach as far as the offence of domestic violence is concerned. Society is changing, so the change in approach is also needed.

## VI. ANALYSIS OF IMPORTANT JUDGEMENTS

We have witnessed number of cases being reported in India under the Protection of Women from Domestic Violence Act, 2005, section 498 -A and the Dowry Prohibition Act, 1961. These laws are enacted to safeguard females against violence either arising out of marriage or not. However, we cannot neglect the fact that many instances are there where women have reportedly misused the above – mentioned laws to harass their husbands, his family or relatives. Therefore, the Courts in India have taken cognizance of such cases and imposed harsh punishment on such women to set an example time and again. Some of the instances of such misuse are discussed as follows:

### 1. *Arnesh Kumar v. State of Bihar*<sup>28</sup>

In this case the wife claimed that she was forced to pay a dowry and that she was removed from the marriage home for refusing to comply. The husband applied for anticipatory bail but was turned down. As a result, the spouse petitioned the Apex Court for special leave. The Supreme Court apprehended that because Section 498A of the Indian Penal Code is a cognizable and non-bailable violation, it is routinely employed as a sword rather than a shield by female folks. Additionally, the Court observed that it causes the spouse and his family to be harassed by having them detained under this Section, and it's even more upsetting to watch bedridden grandfathers and grandmothers being arrested without a prima facie case.

As a consequence, the Court established certain guidelines that must be followed by a police officer while arresting any person under Section 498A of the Indian Penal Code or Section 4

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<sup>27</sup> *Supra* note 22.

<sup>28</sup> (2014) 8 SCC 273.

of the Dowry Prohibition Act, 1961, and that such an arrest must be based on a reasonable belief in the genuineness of the allegation. Even Magistrates must be cautioned when authorizing incarceration on a chaotic and mechanical basis.

2. *State of Assam v. Manju Ram Kalita*<sup>29</sup>

In this case the wife filed a case of cruelty under the IPC accusing her husband of bodily and psychological mistreatment. On the other hand, the companion has denied all of the accusations. The Court held that because it may differ from other legislative requirements, the Court decided that "cruelty" for the purposes of Section 498-A Indian Penal Code must be assessed in the context of Section 498-A Indian Penal Code. It should be evaluated, among other things, by examining the man's behaviour, measuring the intensity or importance of his actions, and determining whether or not it is likely to lead to the woman's suicide. It must be established that the lady has been subjected to cruelty on a regular basis, or at the very least in the time preceding up to the complaint being filed. Petty quarrels, the Court continued, cannot be defined as "cruelty" under Indian Penal Code Section 498-A.

3. *State of Bihar v. Bibi Parwana Khatoon*<sup>30</sup>

The facts of this case are identical to those of earlier incidents in that the wife was murdered by her husband and family members who set her ablaze. The conviction was appealed to the Supreme Court by the deceased wife's sister-in-law and brother-in-law. The Court held that the appellants in this case did not even live in the neighbourhood where the tragedy occurred. Further, there was no proof beyond a reasonable doubt that their allegation was correct. As a result, the Court found them not guilty and ruled that the Court should not wrongly accuse family.

4. *Rajesh Kumar & Ors. v. State of Uttar Pradesh*<sup>31</sup>

The husband and several family members were accused of abusing the wife in the absence of a dowry demand in this case. Other family, on the other hand, urged that certain rules be established to prevent over-involvement. As a result, in the vast majority of Section 498A cases, the husband's relatives are also involved. However, they do not have to have been

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<sup>29</sup> (2009) 13 SCC 330.

<sup>30</sup> (2017) 6 SCC 792.

<sup>31</sup> (2017) SCC OnLine SC 821.

involved in the crime. As a result, the appeal raised the question of whether or not directives were required to avoid the misuse of Indian Penal Code Section 498A.

Taking into consideration the plea of the appellant and need of coming out with certain guidelines. The Supreme Court gave wide guidelines in the following areas to prevent the misuse of Section 498A of the Indian Penal Code:

- i. According to the Supreme Court, each district should create a Family Welfare Committee to investigate complaints filed under Section 498A.
- ii. The complaint should be investigated by an Investigating Officer.
- iii. Cases where a settlement has been reached are disposed of.
- iv. The issuance of a Red Corner Notice will result in the confiscation of passports.
- v. Bail regulations have also been altered.
- vi. Cases involving the same parties may be grouped together.
- vii. Personal presence is no longer a need for all family members.

According to the Court, these guidelines will not apply to offences causing tangible physical injury or death. Furthermore, the Court directed the National Legal Services Authority to give a report at a regular interval of 6 months but not later than 31<sup>st</sup> March, 2018 suggesting any alteration the above – mentioned guidelines or for further guidelines. Yet in many cases the Courts have delivered the decision favouring only women under the Protection of Women from Domestic Violence Act, 2005. This is well reflected from the following judgments:

5. *Senthamarai Selvi v. Meenavathi*<sup>32</sup>

It has been clearly stated in the proviso to Section 19 of the Domestic Violence Act explicitly specifies that no order under Section 19 (1) (b) of the Act can be issued against a woman. It was held in this instance that such women members of the family cannot be commanded to be removed from the shared household under the pretence of granting an order under Section 19 (1) (b) of the Domestic Violence Act.

In the matter of *Uma Narayanan v. Mrs. Priya Krishna Prasad*<sup>33</sup> the High Court of Madras made a similar observation. The Court stated that the Magistrate has the authority to issue an order directing the respondent to leave the shared residence under Section 19 (1) (b) of the

<sup>32</sup> Criminal Original Petition (Md) No. 12092 of 2008.

<sup>33</sup> Criminal Original Petition No. 9277/2008.

Domestic Violence Act. The said proviso has been incorporated only to protect the interests of a woman member of the family who is living in such a shared household while enumerating the directions that can be passed under Section 19 (1) (b) of the Domestic Violence Act and with particular reference to the direction that can be issued under Section 19 (1) (b) of the Domestic Violence Act. The proviso contains a provision like this just for the aforementioned limited purpose. Women may also live in a shared household that belongs to a joint family. Therefore, such women members of the family cannot be ordered to leave the shared household under the pretence of passing an order under Section 19(1) (b) of the Act, but such a direction can be given only against male members.

6. *Uttam Kumar v. Binita Dass*<sup>34</sup>

In a case, the Delhi High Court ruled that only because a woman has earning capacity or is a competent person a magistrate cannot deny her interim maintenance. The fact of the case was petitioner filed an application under the Protection of Women from Domestic Violence Act of 2005, as well as an interim application under Section 23 of the Act, seeking interim maintenance. The Trial Court denied the application primarily on the grounds that the petitioner and respondent are both equally qualified, that the petitioner was previously employed, and that she has not provided any convincing reason or handicap that would prevent her from earning a living.

In the view of above facts, the High Court stated both the Trial Court and the Appellate Court clearly make a mistake in failing to appreciate this Court's opinions holding that "capacity to earn and actual earning are two separate things." Further, the High Court then made the following observation and decision: the respondent does not claim that the petitioner is employed or making money. The only argument that she has is that she is qualified and capable of earning money. The wife's qualifications and earning potential cannot be used to deny interim support to a wife who is dependent and has no source of income."

However, important landmark judgment has been made by the Supreme Court and High Courts for protecting men against the menace of domestic violence. Few instances of the same are as follows:

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<sup>34</sup> Criminal Review Petition No. 659/2017.

7. *Sandhya Wankhede v. Manoj Bhimrao Wankhede*<sup>35</sup>

Here the Court has interpreted section 2(q) of the Protection of Women from Domestic Violence Act, 2005. The term "respondent" is defined under Section 2(q) of the Domestic Violence Act as any adult man who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any remedies under this Act:

Provided, however, that an aggrieved wife or female living in a marriage-like relationship may also submit a complaint against a husband's or male partner's relative.

Because the term respondent is defined to include an adult male person, the judiciary has been faced with the argument that an aggrieved person can only file a complaint under the Domestic Violence Act against an adult male person and not against the husband's female relatives, such as his mother-in-law or sister-in-law. However, in the aforementioned instance, the Supreme Court decided that the proviso to Section 2(q) did not exclude female relatives of the husband or male partner from the scope of a complaint that can be filed under the Domestic Violence Act. As a result, complaints can be filed not just against an adult male but also against a female related of that adult male.

8. *Mohd. Zakir v. Shabana & Ors.*<sup>36</sup>

In this fascinating case from 2018, the High Court of Karnataka ruled that a petition filed by the husband or an adult male under the Domestic Violence Act can be heard. The High Court based its decision on the Supreme Court's decision in *Hiral P. Harsora v. Kusum Narottamdas Harsora*<sup>37</sup>, in which the Supreme Court struck down a portion of Section 2 (a) of the Act (defining "aggrieved person") on the grounds that it violated Article 14 of the Indian Constitution, and the phrase "adult male" as found in Section 2(q) of the Act was deleted.

In light of the aforementioned Apex Court judgement, the High Court stated that if the said sub-section is read without the expression 'adult male,' it would appear that any person, male or female, who is aggrieved and alleges a breach of the Act's provisions could use the Act's provisions. In that light, the petitioner's suit could not have been dismissed on the grounds that

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<sup>35</sup> Criminal Appeal No. 271/2011.

<sup>36</sup> Criminal Appeal No. 926/2018.

<sup>37</sup> (2016) 10 SCC 165.

the Act does not provide for men and that it is solely applicable to women. However, Justice Anand Byrareddy later withdrew the aforementioned High Court verdict after an Advocate objected to it, claiming that the Supreme Court's verdict in the Hiralal Harsora case had been invalidated.

9. *Kamlesh Devi v. Jaipal & Ors.*<sup>38</sup>

In this case, the Supreme Court ruled that a single imprecise claim isn't enough to establish a case under the domestic abuse legislation. The facts of the case are as follows: according to the petitioner, she and the respondents are members of the same family and have been living in the same house for a long time. The petitioner's husband is a retired BSF officer, and she has three daughters: Urmila, Anusaya, and Gaytri. Anusaya and Gaytri, the petitioner's unmarried daughters, have been attending Krishna Nagar College to further their education. Respondents Jaipal, Krishan Kumar, and Sandeep have formed a gang and are quarrelsome, and whenever petitioner's daughters, Anusaya and Gaytri, went to college, respondents Jaipal, Krishan Kumar, and Sandeep followed them and teased them. Sube Singh's husband also filed a complaint against the respondents with the Sarpanch of Village Gaud, and the respondents apologised in writing on 5.8.2008 in front of the village's respected citizens. They remained normal for a while after that, but then they resumed their vulgar behaviour. As a result, having exhausted all other options for protection from domestic violence, the complaint was filed.

After reviewing the Act's provisions, the Trial Court determined that none of the witnesses on record have proved any fact that the respondents and petitioner have been living in the same house and that the respondents have committed domestic violence against them. The trial court also found that no violence of any kind had been alleged.

Having no other option, the petitioner went to the Supreme Court, which likewise refused to grant any remedy, stating: "The High Court has correctly established in effect that the ingredients of domestic violence are totally lacking in this case." The petitioner and the respondents are not living in the same residence together. The responses are allegedly family members, according to the allegations. The respondents don't say anything to the petitioner. They appear to live next door to each other. The demand for exceptional leave is denied."

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<sup>38</sup> Special Leave Petition No. 34053/2019.

10. *Shamshada Akhter v. Ajaz Parvaiz Shah*<sup>39</sup>

The Protection of Women from Domestic Assault Act, 2005 (DV Act) was established to protect women from violence, not to harass the spouse or cause marital discord, according to a noteworthy ruling by a municipal court in Jammu and Kashmir.

Quite recently, in 2021 the 1<sup>st</sup> Class Magistrate of Jammu heard the matter relating to domestic violence case being filed by husband against wife. Magistrate Renu Dogra has stated that even the husband can approach the Court in matters relating to domestic violence. This order was given in due consideration of the judgments *Hiral P. Harsora v. Kusum Narottamdas Harsora*<sup>40</sup> and *Mohd. Zakir v. Shabana & Ors.*<sup>41</sup>

This judgment could be remarked as welcoming step in dealing with the matters of domestic violence where the victims are men and not women. This kind of positive approach towards this menace could bring a change in draconian change in the subject matter and this needs to be continued. Therefore, we can say that the approach of judiciary towards the offence against men are changing for positivity.

## VII. CONCLUSION AND SUGGESTIONS

Society's values, culture, and norms have changed dramatically in recent years as a result of industrialization and westernisation. Previously, men were seen as defenders of their families, but nowadays, both men and women work, raise, and manage their households, contributing equally to their salaries. Men have begun to open out about the domestic violence they endure, and they have begun to publicly share their sorrow, agony, and challenges. Men are no longer superior to women in terms of strength.

In view of the above research, it can be concluded that men are equally subjected to domestic violence in India and worldwide. However, due to many factors such as patriarchal society, the physical appearance of men, physical strength of men and women etc. there has been very less acknowledgement with regard to such practice. Society is still in rudimentary stage as far as the offence against men are concerned. We have seen many legislations and conventions both at national and international level protecting the rights of women. However, the same practice

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<sup>39</sup> Case No. 3722349/2019

<sup>40</sup> (2016) 10 SCC 165.

<sup>41</sup> Criminal Petition No. 2351 of 2017.

is not been adopted as far as offences against men are concerned. Talking about India, we are having very less laws protecting and recognising the offences against men. Still the people consider that women cannot be a perpetrator in such crimes. It would be wrong to state that judiciary is completely silent in this regard as there are occasions where the judiciary has acknowledged such fact and punished the offender as well. Thus, we can say that society is changing, so the laws are also required to be changed.

The legislature is required to take into consideration the changing nature of society and should come up with laws favourable to changing needs of the society. As such one of the changing needs of society as far as case of domestic violence is concerned is to come up with gender neutral laws. Some awareness camps can be arranged to address the issue and for that help of media can be taken as well. Some small - scale awareness programmes in the form of seminars, workshops, legal aid camps etc. in school or colleges can also help in this regard. The helpline numbers for helping the male victims needs to be highlighted more. Many people are not aware of its existence. The numbers can be highlighted through newspapers, social media, news channels, pamphlets etc. Additionally, the role of enforcement official is equally important. The police officers need to look after the allegation of such violence seriously. Moreover, the role of judiciary cannot be neglected as well as judiciary is the epitome of justice. As such justice is for all. And men are no exception to it. Hence, the need of hour is gender – neutral laws in area of domestic violence to restore faith in our judiciary and law – making body of the country.

Apart from that mental health should not be neglected as we have witnessed the consequences of the same during the global pandemic of COVID -19. People now started talking about mental health. This should be continued in future as well. The topic of mental health was neglected in the past and we have witnessed the consequences of the same. Hence, many people now being open with regard to this matter. Similar kind of approach needs to be adopted as far as domestic violence against men are concerned and we need to break all stereotypes attitudes towards it. This way more and more men will be able to speak about the hardship they are going on. Counselling sessions would be of help. Hence, its past time for statutes and legislation to acknowledge their problem as a social issue or concern. Domestic violence against men can be recognised through effective legislative change both at national and international level and public awareness campaigns, and the dismantling of stereotypes and preconceived notions. Moreover, only enacting the law is not the solution, the judiciary and executive needs to look



into its implementation effectively. Thus, all these changes can bring a positive change in society.

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