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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **DOMESTIC VIOLENCE AGAINST WOMEN IN INDIA**

AUTHORED BY - AANCHAL GUPTA & ABHIMANYU GUPTA

## **ABSTRACT**

Violence against women in India is an issue rooted in societal norms and economic dependence. Female feticide, domestic violence, sexual harassment, and other forms of gender-based violence constitute the reality of most girls' and women's lives in India. Wife battering affects the physical and psychological wellbeing of the abused women and even that of their children. Although female participation in public life is increasing and laws have been amended, India still has a long way to go to make Indian women equal citizens in their own country. In our society, many women are violently treated by their intimate partners while they suffer in silence. In some cases, domestic violence leads to the death of these women. It is on this premise that this paper discusses the meaning, causes, types of domestic violence and after-effects of these types of violence on abused women. In addition, the paper discusses the management of this threat against women as well as examines the role to be played by the social workers, professionals, and other voluntary organizations in providing intervention to the affected individuals. In conclusion recommendations were made to eradicate this menace from the society.

**KEYWORDS:** Violence, women, social workers, gender-based etc.

## **INTRODUCTION**

Domestic violence is as old as recorded history which has been reported in virtually every society, every civilization. Discrimination and oppression leading to physical, mental, or emotional violence have been accepted as a part of every patriarchal society. Except recent reference is found, domestic violence has been both socially and legally acceptable. Some important event, laws, codes, provide historical context, within which conceptualization of domestic violence becomes crystal clear. Two major elements combined to seal the status of women are male dominance and projecting women as 'property' an object belonging to men and secondly expectations from women as an ideal 'role model' suit each other, in such a way as to make her vulnerable and subject to discrimination, oppression and

all sorts of victimization and resultantly compel their subordination.

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women...”<sup>1</sup> Domestic violence is physical, sexual, or psychological abuse directed towards one’s spouse, partner, or other family member within the household. Domestic violence occurs when a family member, partner, or ex-partner attempts to physically or psychologically dominate or harm the other. It occurs in all cultures, people of all races ethnicities and religions can be perpetrators of domestic violence. Violence against women is particularly intimate partner violence and sexual violence against women is the major public health problems and violations of women’s human right. According to 2013 a global review of available data, 35 per cent of women worldwide have experienced either physical and or sexual intimate partner violence or non-partner sexual violence. However, some national violence studies show that up to 70 per cent of women have experienced physical and or sexual violence in their lifetime from an intimate partner.<sup>2</sup>

### **DIFFERENT FORMS OF DOMESTIC VIOLENCE IN INDIA**

UNICEF Reports on Progress of Nations released jointly by Government of India and UNICEF says that more than 60 million women, who should have been alive today, are missing. Responsible factors are from feticide to domestic violence to dowry deaths to physical assaults. Discrimination starts even before women are born and continue till; they die. It exists in the form of:

**Feticide** – Some new forms of violence have appeared with technological advances as is evident in case of female feticide, reflecting in adverse sex-ratio. Social bias in favor of a male-child lead to abortions (out of 8000 cases of abortions following sex-determination tests, 7999 are female fetus, according to a Survey) Sex-ratio is continuously declining all over India except for Kerala. Inefficient and ineffective performance of political, administrative, and economic structures and mechanisms failed to stop it.

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<sup>1</sup> UNICEF (2000), Domestic Violence against Women and Girls, Innocenti Digest N0. 6, available at <http://www.unicef-irc.org/publications/pdf/digest6e.pdf> (Visited on 15 March, 2019).

<sup>2</sup> Narwadkar, Dr. Pooja P., Law Relating to Domestic Violence in India 9, (Hind Law House Publication, 2014).



**Infanticide** – Thousands of newly born baby-girls die with overdoses of opium. They are abandoned or thrown in rivers or dust bins to die. Out of abandoned children 90% are girls. Health hazards - According to official figures, there is 10% higher mortality rate for girls than boys due to malnutrition in infancy and childhood. Health Statistics are equally alarming with 80% of them being anemic.

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women...”<sup>1</sup>

**Physical assaults/Rapes/gang-rapes/molestations** – According to a Report, there are reported cases of one rape every 54 minutes, a molestation every 26 minutes; and an act of cruelty every 33 minutes. National Crime Records Bureau (NCRB) statistic says – every 20 minutes, a woman is raped somewhere in India, not to mention the countless number of cases of molestations or rapes going unreported. Child rape cases have increased by 336% in the last 10 years. Government data shows crimes by juveniles – especially rape and abduction of women – has seen exponential rise in the past decade – from 48.7% in 2002 to 66.5 in 2012.

**Dowry deaths** – Number of dowry-deaths is quite alarming in the country – a dowry death every one hour forty-two minutes. Dowry-related violence is also in increase. Maharashtra, Madhya Pradesh, Andhra Pradesh, and Rajasthan are the states with maximum number of reported cases. Many cases remain unreported.

**Victims of materialistic-culture** - Consumerist culture has triggered off increased atrocities, domestic violence, and physical assaults on women. Millions of girls live under threat of physical abuse.

**Female literacy rate** – Male-female literacy-rate is 82.14% to 65.46% according to 2011 census. Employment ratio in organized and unorganized sectors also points out discrimination against women in job-market.

## **TYPES OF DOMESTIC VIOLENCE**

### **Physical abuse**

Domestic violence through physical abuse is the most recognized form of domestic violence. It involves physical hurt being caused to the victim. It can also include physical contact that is done to cause fear of injury, harm etc., to the victim. Physical violence is all about showing and asserting control. Other abusive behaviors, such as threats, intimidation, and restrictions on victim self-determination through isolation, manipulation, and other limitations of personal freedom can lead to physical violence. Physical abuse can also include denial of medical care, sleep deprivation, and forced drug or alcohol usage. It can also include inflicting physical violence on other people, such as children or pets, in order to harm the victim emotionally. Common types of physical abuse include punching, choking or strangulation, hitting, slapping etc. Forceful restraint or throwing objects and smashing walls during arguments also come under physical abuse. Physical abuse during pregnancy can negatively impact the woman and the fetus and cause long-lasting consequences.

### **Emotional or psychological abuse**

Abuse need not always be physical. Emotional and psychological kinds of abuse have very little recognition in society, especially since mental health is hardly given importance. Even in the 21st century, people do not consider mental well-being as a crucial part of the overall well-being of the human body. The psychological consequences of domestic violence can be huge from absolute deprecation to self-worth to even the belief that a person deserves the violence. Emotionally berating the victim, persistent insults, and humiliation all fall under this category. Former or present intimate partners are the most common perpetrators of stalking, which is a common kind of psychological intimidation. Victims often believe their spouse has complete control over them, which has a significant impact on the power dynamic in a relationship, elevating the perpetrator while disempowering the victim. Victims frequently suffer from depression, which puts them at risk for eating disorders, suicide, and drug and alcohol misuse. Because there is no physical proof of this kind of abuse, people do not consider this type of domestic violence worthy of attention.

### **Sexual abuse**

Sexual abuse is any sexual act, effort to obtain a sexual act, unwanted sexual comments, or approaches, or acts to traffic, or otherwise aimed, against a person's sexuality using coercion. Inspections for virginity and female genital mutilation are also a method of sexual abuse. Sexual

abuse happens when a person is verbally forced into consenting when they are unable to understand the nature or condition of the act, when they are unable to deny participation, or when they are unable to articulate their refusal to engage in the sexual act. This could be owing to immaturity, illness, disability, or being under the influence of alcohol or other substances, or it could be due to intimidation or pressure. Another type of sexual abuse is reproductive coercion. Forcing the victim to abort a pregnancy and refusing to use contraceptives are examples of sexual abuse.

Forcibly having sexual intercourse with one's spouse without their consent is marital rape. However, marital rape is not a criminal act almost throughout the world including India. This is because women are considered the husband's property after marriage with no personal and sexual autonomy and dignity. Currently, the Supreme Court of India is hearing petitions to criminalize marital rape. However, the petitions have been publicly opposed by certain groups of people who have stated that criminalizing marital rape would lead to the "breakdown of marriage in India." Such statements showcase the state of marriages in India today and necessitate criminalizing marital rape even more.

### **Financial abuse**

Economic abuse (or monetary abuse) is a form of abuse where one spouse manipulates the other partner to get access to the latter's economic resources. Marital assets are used as a way of asserting control. Economic abuse can also include stopping a spouse from resource acquisition, limiting what the sufferer might also use, or otherwise exploiting the monetary assets of the victim. Economic abuse diminishes the victim's capability to assist themselves, increasing dependence on the wrongdoer. Further, there is reduced access to education, employment, career advancement, and asset acquisition. Economic abuse includes forcing or persuading a family member to sign documents, sell items, or amend a will. The victim can be put on an allowance, for close monitoring of how much money is spent, stopping spending without the abuser's consent etc. In marriages where the victim is completely financially dependent on their spouse, the problem gets aggravated as the victim has no option but to suffer.

## **LAWS THAT DEAL WITH DOMESTIC VIOLENCE CASES**

In India, there are various laws that specifically address the safety of married women from their partners and their partners' families.

## **Protection of Women Against Domestic Violence Act, 2005**

This is a law passed by the Indian Parliament to safeguard women from domestic violence. It outlaws a wide spectrum of bodily, sexual, emotional, and financial abuse against women, all of which are explicitly defined by the Act. It protects women from men of the family. The Act's scope includes not just the protection of women who are married to men, but also women who are in live-in relationships, as well as family members such as grandparents, mothers, and so on.

## **The Dowry Prohibition Act, 1961**

This is a criminal code that punishes the gift and receiving of dowry. The Dowry Prohibition Act of 1961 outlaws the practice of dowry. If a person provides, accepts, or even asks for dowry, they can be imprisoned for a half year (i.e., for 6 months) or fined up to 5,000 rupees.

## **Section 498A IPC**

This is a criminal law that applies to spouses or husband's relatives who are cruel to women. Harassment for Dowry by relatives of the husband or by the husband is a crime under Section 498A of the Indian Penal Code 1860 (IPC). Harassment may take many forms, both physical and mental. Although Marital Rape is not a criminal offence in India, coerced sex with one's wife might be deemed as 'cruelty' under this Section. Section 498A covers a wide range of topics. It also encompasses all purposeful behavior against a woman that forces her to commit suicide or places her life, limb, or overall health in danger. In this context, health refers to both the physical and mental health of women.

## **HOW DOMESTIC VIOLENCE LAWS ARE MISUSED**

Domestic violence laws are frequently used to harass the spouse or any other family member claiming under him, ensuring that he caves to the unlawful demands of the so-called victim rather than vice versa. Unfortunately, there have been several examples where Section 498A has been utilized primarily as a tool for blackmailing. It is often abused as a weapon for exacting retribution on whole families because under this clause, police can arrest anybody named as a tormentor in a married woman's complaint, as 'cruelty' in marriages has been declared a non-bailable offence. Following that, bail under such circumstances is refused as a basic right.

As a result, many times, elderly parents, and other relatives are wrongly accused of physically and emotionally tormenting the so-called victim, producing unnecessary tension that may result in bad health for the elderly parents and physical and mental pain for the accused's family members.

Even if the charge is proven false, the accused is humiliated by the society. Poor and uneducated women may have endured the torment of their husband's family, but many educated women now use this conduct for illegal motives.

The legislation was rewritten, significantly weighted in favor of women, on the assumption that only really offended women would come forward to file a complaint and that they would always speak the truth.

### **DOMESTIC VIOLENCE AGAINST WOMEN**

According to 2013 a global review of available data, 35 per cent of women worldwide have experienced either physical and or sexual intimate partner violence or non-partner sexual violence. However, some national violence studies show that up to 70 per cent of women have experienced physical and or sexual violence in their lifetime from an intimate partner.<sup>2</sup>

Violence against women is a widespread problem, with appalling physical, sexual, emotional, psychological, and economic consequences for girls and women (Gill & Rehman, 2004). It affects women of every age, in every society and in every socio-economic group. "Violence against women refers to any act of gender-based violence that results in, or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. Violence against women shall be understood to encompass, but not be limited to the following:

- a) Physical, sexual, and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation, and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- b) Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational

- institutions and elsewhere, trafficking in women and forced prostitution;
- c) Physical, sexual, and psychological violence perpetrated or condoned by the State, wherever it occurs. This is important so that policy makers have a full understanding of the issues involved in violence against women; otherwise, the laws and policies that are formulated are likely to be ineffective.

## **CONSEQUENCES OF DOMESTIC VIOLENCE**

There are varied consequences of domestic violence depending on the victim, the age group, the intensity of the violence and frequency of the torment they are subjected to. The consequences of the domestic violence in detail can be broadly categorized under – the Effect on the victim and the family, Effect on the society and the Effect on nation's growth and productivity.

### **Effect on the victim and the family**

**Physical Effect** - Bruises, broken bones, head injuries, lacerations and internal bleeding are some of the acute effects of a domestic violence incident that require medical attention and hospitalization (Jones, 1997). Some chronic health conditions that have been linked to victims of domestic violence are arthritis, irritable bowel syndrome (Berrios,1991). Victims who are pregnant during a domestic violence relationship experience greater risk of miscarriage, pre- term labour and injury to or death of foetus.

**Psychological Effect** – Among victims who are still living with their perpetrators, high amounts of stress, fear and anxiety are commonly reported. Depression is also common, as victims are made to feel guilty for 'provoking' the abuse and are frequently subjected to intense criticism .it is reported that 60% of the victims meet the diagnostic criteria for depression, either during or after termination of the relationship, and have a greatly increased risk of suicidality (Barnett,2001). The most referenced psychological effect of domestic violence is Post-Traumatic Stars Disorder (PSTD). According to Vitanza, Vogal and Marshall (1995), PSTD is characterized by flashbacks, intrusive images, exaggerated startle response, nightmares and avoidance of triggers that are associated with the abuse. These symptoms are generally experienced for a long span of time after the victim has left the dangerous situation. Psychological abuse which includes behavior that is intended to intimidate and persecute, and takes the form of threats of abandonment or abuse, confinement to the home, surveillance, threats to take away custody of the children, destruction of objects, isolation,

verbal aggression, and constant humiliation.<sup>3</sup>

**Effect on Children:** There has been increase in acknowledgement that a child who is exposed to domestic abuse during his upbringing will suffer in his development and psychological welfare (Dodd, 2009). Some emotional and behavioral problems that can result due to domestic violence include increased aggressiveness, anxiety, and changes in how a child socializes with friends, family, and authorities. Problems with attitude and cognition in schools can start developing, along with a lack of skills such as problem-solving. Correlation has been found between the experience of abuse and neglect in childhood and perpetrating domestic violence and sexual abuse in adulthood (Sadler, 1994). Additionally in some cases the abuser will purposely abuse the mother in front of the child to cause a ripple effect, hurting two victims simultaneously.

## **FIGHTING THE 'DOMESTIC VIOLENCE' EVIL**

### **MEANING OF VIOLENCE**

The term violence refers to any physical force for or any damage or injury to person or property.

**Oxford Dictionary defines:** “Violence as behaviour involving physical force intended to hurt, damage or kill someone or something.”<sup>4</sup>

**WHO defines Violence:** "the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation".<sup>5</sup>

‘Domestic violence is violent victimization of women within the boundaries of family, usually by men. Domestic violence is in most of the cases violence against women by the members of house where she resides. It can be the husband, his parents, or siblings or any other resident who has the overt or covert latitude for actions that can cause physical or mental agonies to women...it happens behind closed doors and is most often denied by the very women who has been victim of violence.’<sup>6</sup>

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<sup>3</sup> Newton C. J. “Domestic Violence: An Overview” FindCounseling.com, Mental Health Journal. February, 2001. Available at <http://www.aaets.org/article145.htm>.

<sup>4</sup> <http://www.oxforddictionaries.com/definition/english/violence>.

<sup>5</sup> World report on violence and health, World Health Organization, 2002.

<sup>6</sup> Jaising Indira, law of Domestic Violence, 9-10, (Universal Law Pub. Co. Pvt. Ltd. Delhi, 2001).

<sup>7</sup> Id at 10.

Term “Domestic Violence against women” means any act or conduct which has potential to injure or hurt women physically, mentally, emotionally, socially, and spiritually within the four walls of house, however, such an act or conduct is done usually not by strangers.<sup>7</sup>

### **Intervention and action at multiple levels**

Efforts done so far on gender issue defy basic and simple solutions. Elimination of all kinds of violence against women requires channelizing simultaneously the attention and efforts of all the concerned people and work together. This sensitive issue needs intervention and action at multiple levels – state society and individuals in public and private capacities.

### **At government level**

- Amongst immediate steps, the most important task of government is to arrest continuously deteriorating law and order situation. There should be vigilant policing round the clock both in cities and suburban areas and more women police officers in all police stations.
- Speedy and time-bound justice is needed urgently. Delayed justice emboldens the spirits of criminal-minded elements in society, who take advantage of loopholes in law, and which enables them to escape. Many culprits go off scot-free even after committing a heinous crime.
- Reforming the structure and systems of governmental institutions engaged in the law-making and enforcement tasks are highly desirable, but it may take a longer time.

### **Role of Non-Governmental Institutions/Organizations**

Non-governmental organizations and institutions should conduct series of seminars, workshops meetings at different places on various aspects of violence/oppression against women. They should discuss in depth the gravity, enormity and dangers of continuously deteriorating law and order position, deteriorating human values, self-centered attitude of individuals and alarming rise in bestial acts against women, which makes it very unsafe for women to move freely outside their homes and try to find out remedy for it.

### **Media**

Media should bring women issues to public domain in a forceful manner. They can play an important role in spreading awareness. They can provide a platform to speakers and panellists from different elds, eminent personalities responsible for decision-making to share their views and conduct an in-



depth study on various gender issues, and view it holistically touching various aspects of the problem. Views of some of the victims of atrocities should also be taken to understand their unpleasant experiences and the way they came over the agonies they suffered because of inhuman acts.

### **At family's level**

- Family is the first and foremost institution, where children learn first lesson of humanity and social relationships. Family is the best place to inculcate positive values – like honesty, simplicity, modesty, sense of responsibility and respect for elders – amongst children and youth of both the sexes.
- Childhood is the most formative, educative, and impressionable time in a human's life and most appropriate time for inculcation of such values, as it remains permanently and firmly embedded in their delicate psyche throughout their life.
- Training for gender sensitization should be imparted within the family. Right from the beginning, all the children should be treated equally, without any gender-bias.

### **On women' part**

- Instead of silently bearing all the atrocities perpetrated against them, women should raise their voice against injustice; create awareness amongst women about their rights and channelize their efforts by writing articles, organizing seminars, workshops etc.
- Irrespective of their social status in society, they should join hands, and work in a spirit of unity. They should raise their voice boldly against social evils like dowry, bride- burning, female infanticide, etc. Women should exercise utmost vigilance both at the mental and physical level to ensure their safety and security, so that no one could exploit them when placed under adverse circumstances in life. They must always be prepared for self- defense by getting training in Karate etc.

## **THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005**

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 related with or incidental to. The incident of domestic violence is commonly prevalent but has

remained largely invisible in the public domain. At present, where a woman is subjected to cruelty by her husband or his relatives, it is a crime under Section 498A of the Indian Penal Code, 1860. As a result of that, a law is proposed keeping in view the rights guaranteed under Articles 14, 15 and 21 of the Constitution to grant for a remedy under the civil law which is intended to protect the women from being sufferers of domestic violence and to prevent the incidence of domestic violence in the society.<sup>8</sup>

“Any act, omission or commission or conduct of the respondent shall constitute domestic violence when it 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 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 has the effect of threatening the aggrieved person or any person related to her by any conduct; or otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”<sup>9</sup>

## **RECOMMENDATIONS**

### **1. Tolerance**

A perfect human being does not exist. To keep a relationship going, both parties must exhibit maturity and learn to tolerate each other's imperfections.

Tolerance can be one of the best domestic violence prevention strategies. When there is tolerance, violence rarely results in a home. Tolerance should also extend to children, domestic servants, and other members of the household.

### **2. Education**

Educational training can help you learn how to stop domestic violence, teach you about the violation of women's rights and violations of men's rights. It will also let you figure out how to help an abused woman or man, among others.

Low literacy has also been identified as a factor that negatively affects domestic violence prevention efforts. This is because poorly educated people tend to be economically less productive and thus have

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<sup>8</sup>The Protection of Women from Domestic Violence Act, 2005.

<sup>9</sup>Ibid sec 3

less bargaining power in the family. Thus, quality education may be one of the most efficient ways to stop violence against any gender.

### **3. Observe the law**

Even if you are the head of your partnership or family, which does not necessarily be a license for domestic abuse or violence; you need to understand that many countries have legal measures for domestic violence prevention.

Some common measures include subjecting the abuser to rehabilitation programs as well as sanctions like fines, community service, among others. If implemented well, these measures will be highly prolific for domestic violence prevention.

### **4. Promote gender equality**

The World Health Organization (WHO) has noted that “gender inequalities increase the risk of violence of men against women and inhibit the ability of those affected to seek protection.”

However, there are cultures in the world where women have the upper hand and men are forced to submit. All domestic violence strategies must recognize that men are also prone to abuse. It is very common to associate domestic violence with men.

But the US-based National Coalition Against Domestic Violence (NCADV) estimates that 1 in 4 men have been subjected to some form of physical violence by an intimate partner.

This lack of commensurate attention to the plight of male domestic abuse victims has led to the demand for a day for the elimination of violence against men. The organization also observes that violence by intimate partners is the most common form of violence against.

According to the NCADV, LGBTQ members have equal or even higher chances of being subjected to domestic violence than heterosexuals. Despite this, most domestic violence awareness movements focus on heterosexual relationships.

### **5. Know the data and demand more of it**

To effectively combat gender-based violence, we need to understand the issue.

Relevant data collection is key to implementing successful prevention measures and providing survivors with the right support. As gender-based violence has spiked during COVID-19, the gaps in gender sensitive data collection have become more glaring than ever. Call on your government to invest in the collection of data on gender-based violence.

## **LANDMARK DOMESTIC VIOLENCE CASES IN INDIA**

### **1. Sandhya Wankhede v. Manoj Bhimrao Wankhede, (2011)**

#### **Facts of the case**

In the case of (Sandhya Wankhede v. Manoj Bhimrao Wankhede), after getting married in 2005, the Appellant Sandhya lived with R1, R2, and R3 for nearly a year, which caused problems in her marriage. She filed a police report against her husband under Section 498A of the Indian Penal Code for assaulting her. She also filed an application against all three Respondents, which the First-Class Judicial Magistrate granted, directing R1 to pay the monthly maintenance. All Respondents were also barred from trying to evict the Complainant from her matrimonial home. Criminal appeals and applications filed by R1 before the Sessions Judge and the High Court were denied. R2 and R3 applied to the First-Class Magistrate, but their request was denied. They filed an appeal, claiming that women cannot be considered Respondents in DV proceedings. The Court agreed and overturned the order, enabling Appellant to be evicted from her marriage home, which was solely owned by R2. As a result, it was not a “shared house.” However, the Court compelled R1 to offer separate lodging or make further payment for it as an alternative. The Appellant’s appeal in Sessions Court was replied based on the decision that “females” are not included within ‘Respondents.

The HC similarly took a similar stance, deleting R2 and R3’s names from the proceedings and ordering the Appellant to quit the matrimonial home. Hence this appeal was made.

#### **Issue involved in the case**

Whether a complaint can be filed under the Domestic Violence Act only against an adult male person and not against the husband’s female relatives, i.e., mother-in-law and sister-in-law?

#### **Judgment given by the Court**

However, in the aforementioned instance, the Supreme Court resolved the question by ruling that the provision to Section 2(q) that doesn’t exclude female relatives of the husband or male partner from the scope of a complaint that can be submitted under the Domestic Violence Act. As a result, complaints can be filed not only against the adult male person, but also against the adult male’s female relative.

## **2. Lalita Toppo v. the State of Jharkhand, (2018)**

### **Facts of the case**

In the case of *Lalita Toppo v. the State of Jharkhand and Anr.* (2018), which was heard by the Supreme Court of India, the Complainant, who was not the Respondent's legally wedded wife, approached the Court to obtain maintenance under the provisions of the Protection of Women from Domestic Violence Act, 2005, supposing that she will not be allowed to maintenance under Section 125 of the Code of Criminal Procedure, 1973.

In this instance, the Appellant was in a live-in relationship, with whom she had a kid. When the couple got separated, the Appellant sought support from her spouse, for which the Gumla Family Court allowed, giving her Rs 2000 per month and Rs 1000 to her child. The Appellant filed an appeal in the High Court, which found the family court's ruling to be incorrect and ruled in favour of the partner. The Appellant then went to the Supreme Court.

### **Issue involved in the case**

Whether a live-in partner can seek maintenance under the Domestic Violence Act, 2005?

### **Judgment given by the Court**

In the Supreme Court a three-judge Bench composed of the then- CJI Ranjan Gogoi, Justices U.U. Lalit and K.M. Joseph observed that a live-in partner will be obligated to even more relief than that envisaged by Section 125 of the Code of Criminal Procedure, 1973. Referring to the provisions of the Domestic Violence Act, the bench noted that the petitioner in the case would have a remedy to seek maintenance under the Act even though she is not the legally wedded wife and thus not obligated to be maintained under Section 125 of the Code of Criminal Procedure.

It was also observed by the Court that domestic violence, according to the provisions of the Domestic Violence Act, also includes economic abuse.

## **CONCLUSION**

The Domestic Violence Act, 2005 and the provisions of the Indian Penal Code, 1860 are a highly promising piece of legislation that combines civil and criminal punishments to give effective remedies to women who become victims of domestic violence. The statute includes provisions for protection officers, medical facilities, and free of charge orders, among other things, to assist aggrieved women in defending themselves and their loved ones. However, the Act does not come

without flaws. Clearly, the Act's implementation must be strengthened. According to Human Rights Watch, police frequently do not submit a First Information Report (FIR), which is the first step in commencing a police investigation, especially if the aggrieved individual is from a low-income or socially disadvantaged part. It is also true that the DV Act has failed to address the issues that women and men confront when it comes to domestic violence, and the law is frequently misapplied when it is employed. Society needs more gender-neutral laws that treat men and women equally in situations of domestic violence, rather than instilling dread in the hearts of innocent people, as most men do and giving the other gender an extortion weapon. On the surface, the DV Act appears to be gender prejudiced. The DV Act should be changed with more gender-neutral clauses to prevent its misuse and to promote gender equality and fair justice.

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