

## Brief Review

# Domestic Violence - An Old Malady with a New Perspective

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## ABSTRACT

Domestic violence is one of the most common types of violence that occurs behind closed doors and sometimes in public. The innate desire of humans to control and have power over others results in practising this control over their near and dear ones. Domestic violence is considered to have occurred when one intimate partner uses physical violence, coercion, threats, intimidation, isolation and/or emotional, sexual and economic abuses over the other to maintain power and control. Other names of domestic violence include, partner violence, relationship violence, intimate partner abuse, spouse abuse, domestic abuse, wife abuse or wife beating and battering. It encompasses violence against both men and women and includes gay and lesbian relationships. It has a widespread prevalence across all countries, irrespective of social, economic, religious or cultural division. Women are generally the sufferers/victims of abuse, as from olden times the socio-cultural environment is so inclined towards patriarchy and masculinity that they justify wife beating as a part of male supremacy.

**Keywords:** Domestic, Intimate partners, Power, Widespread, Violence, Law

## INTRODUCTION

Domestic violence is an age old malady still widely rampant in our modern society. Violence within the realms of a relationship, behind the closed doors or in the open, has reached disturbing proportions despite the fact that it is now being recognised as a public health issue and various laws and acts have been enacted in order to protect the rights of women and children. The United Nations Declaration on the Elimination of Violence against Women defines 'Violence against Women' as any act of gender-based violence that results in or likely to result in physical, sexual or psychological harm or suffering to the women.<sup>[1]</sup>

As per The Protection of Women from Domestic Violence Act, 2005, omission, commission or the conduct of the respondent shall constitute domestic violence in case of the following:

a) Harms, 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, sexual, verbal and emotional, and economic abuse.

- 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 dowry, or other property or valuable security.
- c) Has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or (b).
- d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.<sup>[2]</sup>

Intimate partner violence is described as the physical, sexual or psychological harm by current or former partner or spouse. The definition includes current spouses, current non-marital partners, dating partners, divorced or separated spouses, former non-marital partners, former boyfriends/girlfriend (heterosexual or same sex).<sup>[3]</sup>

## TYPES OF DOMESTIC VIOLENCE

1. **Physical violence:** Includes acts of physical aggression, such as slapping, shoving, pushing, punching, choking, kicking, holding, binding, beating or assaulting with weapon.
2. **Psychological abuse:** Includes threat of physical harm to the victim or others, intimidation, coercion, degradation and humiliation, false accusations, ridicule, constant belittling, isolating a person from their family and friends, monitoring their movements and restricting their access to information or assistance. A new modern psychological abuse expressed through internet is Cyberstalking. Cyberstalkers target their victim through chat rooms, message boards, discussion forum and emails.
3. **Sexual abuse:** Sexual abuse under domestic violence is said to have occurred when any one of the following several situations has taken place between intimate partners.
  - a) Minimised the importance of your feeling about sex
  - b) Criticised you sexually.
  - c) Insisted on unwanted or uncomfortable touching.
  - d) Withheld sex and affection.
  - e) Forced sex after physical abuse or when you were sick.
  - f) Raped you.
  - g) Been jealous, angry assuming you would have sex with anyone.
  - h) Insisted that you dress in a more sexual way than you wanted.<sup>[4]</sup>

## PREVALENCE RATE IN INDIA

According to the United Nation Population Fund Report, around two-thirds of the married Indian women are victims of domestic violence and as many as 70% of the married women in India between the age of 15 and 49 years are victims of beating, rape or forced sex. In India, more than 55% of the women suffer from domestic violence, especially in the states of Bihar, Uttar Pradesh, Madhya Pradesh and other northern states.

According to the National Family Health Survey 3, carried out in 29 states in 2005-2006, the prevalence of domestic violence was 37.2%. However, it was not uniform across the country, ranging from 59% in Bihar to 6% in Himachal Pradesh.<sup>[5]</sup>

INCLEN (International Clinical Epidemiologists Network) found it as a problem that cuts across age, education, social class and religion in India. The same study is of the view that 40% women had experienced at least one form of physical violence in their married life.<sup>[6]</sup> Murthy *et al.*<sup>[7]</sup> is of the view that numbers of family members, type of marriage and husband's education, besides menstrual problems, have significant influence on domestic violence. Studies have also revealed that sons of violent parents and men raised in patriarchal family structure that encourages traditional gender role are more likely to abuse their intimate partners.<sup>[8-11]</sup> Another study among the Uttar Pradesh men by Gerstein<sup>[12]</sup> is of the view that low educational level and poverty are the important reasons for domestic violence. Further, marriage at a younger age makes women vulnerable to domestic violence.<sup>[13-15]</sup> Besides this, the role of inter-spousal relationship, sex of the children, ownership of property, dowry, working status, autonomy, religion and caste of the person cannot be ignored.<sup>[16]</sup>

## DOMESTIC VIOLENCE AND LAW - GLOBAL SCENARIO

Globally, a few countries have enacted law against this crime. The law specifically requires medical staff to report suspected domestic violence. However, many experts suggest that it is absolutely contraindicated to report on cases of domestic violence to any agency or authority without the victim's direct request or consent.

In all the US jurisdictions, the victims of domestic violence can obtain by statute a Civil Protection Order. In most of the countries, an abused adult can file on his or her behalf. An adult can also file on behalf of a child or decision-incapable adult. A few states in the USA allow minors also to file petition on their own behalf.

## INDIAN SCENARIO

India has adopted the Convention on Elimination of all Forms of Discrimination against Women and the Universal

Declaration of Human Rights, both of which ensure that women are given equal rights as men and are not subjected to any kind of discrimination. Article 15 of the constitution provides for prohibition of discrimination against the citizens on grounds of religion, race, caste, sex or place of birth, or their subjection to any disability, liability or restriction on such grounds. Article 15(3) gives power to the legislature to make special provisions for women and children. In exercise of this power, the protection of women from the Domestic Violence Act was passed in 2005. It was brought into force by the Indian Government from 26 October 2006. As of November 2007, it has been ratified by 4 of 28 state governments in India, namely, Andhra Pradesh, Tamil Nadu, Uttar Pradesh and Orissa (Odisha).

The kinds of abuse covered under the act are as follows:

1. Physical abuse: An act or conduct causing bodily pain, harm or danger to life, limb or health; an act that impairs the health or development of the aggrieved person; or an act that amounts to assault, criminal intimidation and criminal force.
2. Sexual abuse: Any conduct of sexual nature that abuses, humiliates, degrades or violates the dignity of a woman.
3. Verbal and emotional abuse: Any insult, ridicule, humiliation, name calling, insults or ridicule for not having a child or a male child; or repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
4. Economic abuse: Depriving the aggrieved person of economic or financial resources to which she is entitled under any law or custom, or which she acquires out of necessity, such as household necessities, *stri dhan*, her jointly or separately owned property, maintenance and rental payments.

Disposing of household assets or alienation of movable or immovable assets; or restricting continued access to the resources or facilities in which she has an interest or entitlement by virtue of the domestic relationship, including access to shared household.

## **BENEFICIARIES UNDER THE ACT**

### **Women**

This act covers women who have been living with the respondent in a shared household and are related to him by blood, marriage or adoption. It includes women living as sexual partners in a relationship that is in the nature of marriage. Women in fraudulent or bigamous marriages or in marriages deemed invalid by law are also protected.

### **Children**

It also covers children who are below the age of 18 years and include adopted, step or foster children who are subjected to physical, mental or economic torture. Any person can file a complaint on behalf of a child.

### **Respondent**

The act defines the respondent as any adult male person who is or has lived in a domestic relationship with the aggrieved person and includes relatives of the male partner or husband.

### **Rights Granted to the Women**

1. Right to reside in a shared household.
2. Right to obtain assistance and protection.
3. Right to issuance of orders - protection order, residence order, monetary relief, custody orders, compensation orders, interim and *ex parte* orders.
4. Right to obtain relief granted by other suits and legal proceedings.

### **Procedure of Filing Complaint and the Courts Duty**

The aggrieved person or any other witness of the offence on their behalf can approach a police officer, protection officer or the service provider, or can directly file a complaint with the magistrate for obtaining orders or reliefs under the act. The informant, who in good faith provides information relating to the offence to the relevant authorities, will not have any civil or criminal liability.

The court is required to take cognizance of the complaint by instituting a hearing within 3 days of the complaint being filed in the court.

The magistrate shall give a notice of the date of hearing to the protection officer to serve to the respondent and such other persons within a maximum period of 2 days or such further reasonable time, as allowed by the magistrate. The court is required to dispose of the case within 60 days of first hearing. The court, to establish the offence by the respondent, can use the sole testimony of the aggrieved person. Upon finding the complaint genuine, the court can pass a protection order, which shall remain in force till the aggrieved person applies for discharge. If upon receipt of application from the aggrieved person, the magistrate is satisfied that the circumstances so require, he may alter, modify or revoke an order after recording the reasons in writing.

#### **Penalty/Punishment: For the Respondent**

Breach of protection order or interim order is a cognizable and non-bailable offence, punishable with imprisonment up to 1 year or fine up to Rs 20,000 or both. He can also be tried under the Dowry Prohibition Act.

#### **Appeal**

An appeal can be made to the court of session against any order passed by the magistrate within 30 days from the date of the order being served on either of the parties.

### **CONSEQUENCES OF DOMESTIC VIOLENCE**

#### **Effect on the Victim**

Battered women have the tendency to remain quiet, are emotionally disturbed and prone to suicide. A working woman may drop out from the work place and may lose her efficiency in work. Her health may deteriorate. Apart from the direct effects of violence, like physical trauma, fractures and blunt trauma, studies have also linked violence to multiple somatic syndromes, pelvic pain, increased number of surgeries and irritable bowel syndrome.<sup>[17]</sup> Of considerable interest is the economic loss due to violence. It can result in loss of days of work, both to the victim and the perpetrator, thus resulting in loss of wages and direct losses in seeking healthcare. Studies have indicated that women experiencing violence have more chances of suffering from anxiety, depression, post-traumatic stress disorder, suicide, somatic pain syndromes, phobias and panic disorder.<sup>[18,19]</sup> Women

whose husbands engage in both physical and sexual abuse have higher odds of reporting gynaecological symptoms, like blood after intercourse, vaginal discharge, burning micturition, pain during intercourse and symptoms suggestive of sexually transmitted infections, like foul smelling discharge, lower abdominal pain and vaginal itching or irritation.

#### **Effect on the Children**

Children living in battered homes are forced to grow up faster than their peers. They tend to become either extremely introverted or extroverted. Psychosomatic problems (aches and pains for no apparent reason) are common. Eating and sleeping patterns tend to be disrupted. Teens never learn to form trusting lasting relationships or end up in violent relationships themselves. A girl child from a violent home can withdraw from the society and become completely depressed. Children from violent homes become disobedient and violent, and start using aggression to solve their problems. Adolescents may succumb to drugs and alcohol when treated harshly.

### **CONCLUSION**

In 2010, a movie based on domestic violence titled, 'Bell Bajao', was released with the support of the Ministry of Women and Child Development. It is now being recognised as a public health issue, as some of the prevention strategies lie in the hands of the practitioners of public health and the public too, as shown in the film. Timely intervention can help many. An inter-sectoral approach is required, thereby promoting socio-economic development like female literacy, employment and formulation of gender-equitable policies. A public health approach should emphasise towards the primary prevention of domestic violence by sharing knowledge and raising awareness. It requires development of uniform operational definitions adapted for India and dedicated surveys. Specific campaigns to promote awareness regarding the rights of women in the form of celebration of International Day for Elimination of Violence against Women (25<sup>th</sup> November) should be carried out with full participation of both genders. Health providers need to be sensitive to the needs of the victims. Support groups and men's groups should be mobilised for developing a society free of domestic violence.

## REFERENCES

1. United Nations Declaration on the elimination of violence against women. New York: United Nations General Assembly, 1993. Available from: [http://daccess-ddsny.un.org/doc/UNDOC/GEN/N94/095/05/PDF/N9409505.pdf? Open Element](http://daccess-ddsny.un.org/doc/UNDOC/GEN/N94/095/05/PDF/N9409505.pdf?OpenElement). [Last accessed on 2012 June 12].
2. The Protection of Women from Domestic Violence Act, 2005. No 43 of 2005. Available from: <http://wcd.nic.in/wdvact.pdf> [Last accessed on 2012 June 12].
3. Centers for Disease Control and Prevention. Intimate Partner Violence Surveillance Uniform Definitions and Recommended Data Elements. Georgia: Centers for Disease Control and Prevention. Available from: [http://www.cdc.gov/ncipc/pub-res/ipv\\_surveillance/Intimate%20Partner%20Violence.pdf](http://www.cdc.gov/ncipc/pub-res/ipv_surveillance/Intimate%20Partner%20Violence.pdf) [Last accessed on 2012 June 12].
4. Newton CJ. Domestic violence an overview. Mental Health J 2001, Available at [www.aaeps.org\\_article145.htm](http://www.aaeps.org_article145.htm)
5. WHO multi-country study on women's health and domestic violence against women. Initial results on prevalence, health outcomes and women's responses. A summary report available from: [http://www.who.int/gender/violence/who\\_multicountry\\_study/summary\\_report/summary\\_report\\_English2.pdf](http://www.who.int/gender/violence/who_multicountry_study/summary_report/summary_report_English2.pdf) [Last accessed on 2012 June 12].
6. International Clinical Epidemiologists Network (INCLEN). Domestic violence in India 3: A summary report of a multi-site household survey. Washington, DC: International Centre for Development and Population Activities 2000.
7. Murthy MSR, Ganesh P, Srivirajarani J, Madhusudan R. Proximate determinants of domestic violence: An exploratory study on role of menstrual problems and lifestyle of men. Demogr India 2004; 33: 85-105.
8. Straus MA, Gelles RJ, Steinmetz S. Behind closed doors: Violence in the American family. Garden City, New York: Anchor Press, 1980.
9. Martin LS, Moracco KE, Garro J, Tsui AO, Kupper LL, Chase JL, *et al*. Domestic violence across generations: Findings from Northern India. Int J Epidemiol 2002; 31: 560-72.
10. Fagot BI, Loeber R, Reid JB. Developmental determinants of male to female aggression. In: Russell GW, editor. Violence in intimate relationships. PMA Publishing Corp. New York 1998; pp. 91-105.
11. Malamuth NM, Linz D, Heavey CL, Barnes G, Acker M. Using the confluence model of sexual aggression to predict men's conflict with women: A ten year follow-up study. J Pers Soc Psychol 1995; 69: 353-69.
12. Gerstein L. In India, poverty and lack of education are associated with men's physical and sexual abuse of their wives. Int Fam Plan Perspect 2000; 26: 44-5.
13. Mishra J. Women and human rights. Chapter 5. New Delhi: Kalpaz Publications 2000; pp. 123-34.
14. Hindin JM. Who is at risk? Factors associated with intimate partner violence in the Philippines. Soc Sci Med 2002; 55: 1385-99.
15. Rao V. Wife beating in rural south India: A qualitative and econometric analysis. Soc Sci Med 1997; 44: 1169-80.
16. Jejeebhoy S. Wife beating in rural India: A husband's right? Evidence from survey data. Econ Polit Weekly 1998; 33: 855-62.
17. Dalal K. Does economic empowerment protect women from intimate partner violence? J Inj Violence Res 2011; 3: 35-44.
18. Martin SL, Tsui AO, Maitra K, Marinshaw R. Domestic violence in northern India. Am J Epidemiol 1999; 150: 417-26.
19. Sarkar M. A study on domestic violence against adult and adolescent females in a rural area of west Bengal. Indian J Community Med 2010; 35: 311-15.