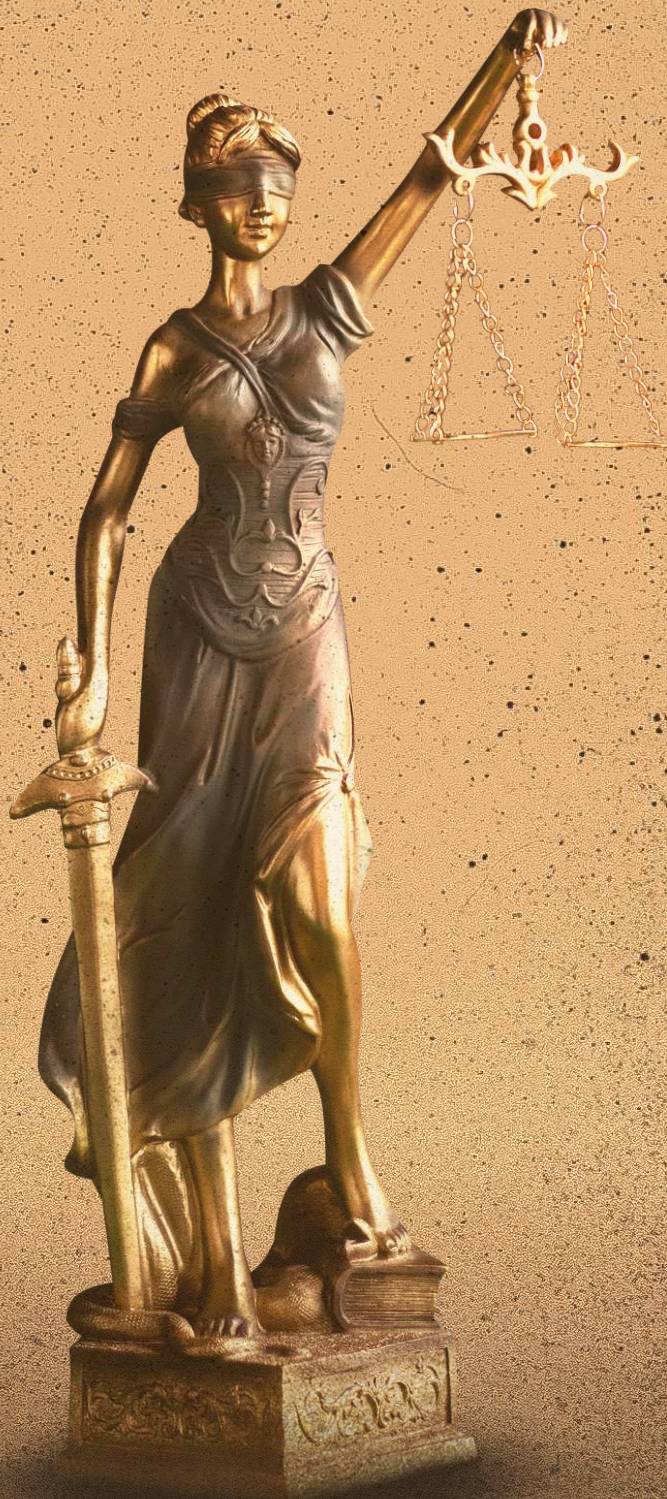


# THE JOURNAL OF EQUITY AND JUSTICE



VOLUME 1 AND ISSUE 1 OF 2023  
INSTITUTE OF LEGAL EDUCATION



**ILE Journal of Equity and Justice**  
**(Free Publication and Open Access Journal)**

**Journal's Home Page** – <https://jej.ilededu.in/>

**Journal's Editorial Page** – <https://jej.ilededu.in/editorial-board/>

**Volume 1 and Issue 1 (Access Full Issue on – <https://jej.ilededu.in/category/volume-1-and-issue-1-of-2023/>)**

**Publisher**

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@ilededu.in](mailto:info@ilededu.in) / [Chairman@ilededu.in](mailto:Chairman@ilededu.in)



© Institute of Legal Education

**Copyright Disclaimer:** All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://jej.ilededu.in/terms-and-condition/>

## DOMESTIC VIOLENCE – A Legal Analysis

**AUTHOR** – ANJALI KUMARI, Student of TEERHANKER MAHAVEER UNIVERSITY, College of Law and Legal Studies, Moradabad

**Best Citation** – ANJALI KUMARI, DOMESTIC VIOLENCE – A Legal Analysis, *ILE Journal of Equity and Justice*, 1 (1) of 2023, Pg. 66-70, ISBN - 978-81-961791-3-7.

### Abstract

Domestic violence is the sadism perpetrated by person in note in the victim's domiciliary sphere. This contains partners and ex-partners, expeditious members of family, other kinsperson and the friends who are very much close to the family. The term 'domestic violence' is used when there is an adjacent connection between the wrongdoer and the sufferer. Now days, domestic violence has become the biggest curse for our society as it is increasing day by day and the biggest problem is that most of the victims are not raising their voice against it. Some of them are restless and are not able to take any step against it and some of them are not taking initials against domestic violence by their choice as they think that this will ruin their family peace.

Domestic violence is committed by someone or we can say by anyone, mostly the closed ones in domestic circle such as non-ventilated room of domestic circle. Domestic violence deals with physical force against the victim. Domestic violence can be of various types, such as: thrashing, pushing, seizing, snapping, holding back, trembling, and burning and so on. Physical violence may or may not result in a gouge which needs medical awareness. Not only poor and uneducated families are the part of domestic violence but even the rich and educated families are also involves in this type of activities which cannot be tolerated. India is well known for the crimes related to physical violence but domestic violence is expanding in other countries also. Domestic violence are of so many types, such as: maltreatment with child, ill usage of words for senior, ill-treatment

by close partners, female genital mutilation, honor killing, stalking, force marriages, etc.

### 1. INTRODUCTION:

Domestic violence basically deals with that violence which is done in home i.e. under the acceptance of family members. Generally, domestic violence occurs in domestic surroundings such as marriage or cohabitation. Domestic violence is also known as intimate partner violence, which is carried out by one person in an intimate relationship against the other person who is the relationship or mostly it is committed by against the spouse of the other. It also deals with the violence against children, parents and elderly people living in the house. Domestic violence can be done in many forms such as abusing, emotional tortures, physical or emotional traumas, economical issues created by the other, sexual abuse, reproductive abuse and many more. The activities which are mostly done for the commitment of these domestic violence are thrashing, pushing, seizing, snapping, holding back, trembling, burning, acid throwing and so on, which sometimes leads to death or we can say domestic death. Domestic death involves dowry death, burning of bride, acid throwing, honor killing. Honor killing are mostly done by the non-cohabiting members of the family. Mostly, the victims of the domestic violence are women who have face a lot of physical violence or that violence which are dangerous in nature. Women in the families are less likely to raise their voice against the activities which are causing harm to them. They prefer tolerating the activities instead of raising voice. According to the World Health Organization, 1out of 3

women are the part of domestic violence at some point of their lives. The countries having a very less amount of gender equality are more likely to face domestic violence. Domestic violence falls in those categories of violence or crime for both men and women which are mostly unreported. In some cases men can also be the victim of domestic violence. Generally domestic violence happen which the wrongdoer finds that there is no one entitled to stop or raise voice against his/her activities. Many people do not raise their voice against this physical violence because of their thoughts which considers this violence as the part of family problems or family conflicts. They think that these activities are just because of the miscommunication happens among the family members, they do not considers themselves as victims. Due to this the victim may have to face some physical or mental disorder or may be illness or some severe disease. Children living in the house also become the part of this domestic violence and they sometimes face mental health such as depression, anxiety etc. at a very early age.

## **2. TYPES OF DOMESTIC VIOLENCE:**

Domestic violence begins when the confidential partner started remarking his signifying nature upon the other partner. It can be sexually, verbally, physically, etc. The basic purpose of the wrongdoer is to control the sufferer and it started expanding largely when the wrongdoer finds out that the dominance is being tolerated by the victim and there is no one who can speak against him. The abuser always tries to find out a way to manipulate the partner or spouse. Domestic violence can be done by many forms but some of its common types are:-

### **i. SEXUAL ABUSE:**

It is one of the worst techniques used by the wrongdoer against the victim. Because of sexual abuse the victim started feeling unwanted and started doubting on their own identity and also it lowers their self confidence. Sexual abuse is a way to force the partner for doing sexual activities which sometimes leads

to the rape or exploitation of the victim. sexual abuse can be of so many types such as: sexual union, an unaccomplished sexual activity where sex is attempted but remains futile, touching and hurting the private parts without the permission of the other, verbal sexual abuse which involves forceful sexual activities like forcing someone to watch pornography unwillingly.

Sexual abuse also happens when the wrongdoer forces the victim to use birth control even when she wanted to conceive and does not want to take part in such activities. Sometimes its also called reproductive abuse.

### **ii. PHYSICAL ABUSE:**

It directly deals with the harm caused by the wrongdoer who affects the physical appearance or physical health of the victim. It involves striking or restricting basic needs such as food, shelter or sleep. Because of this physical abuse the victim have to face problems like bad or unwanted signs of black spots near eyes, the scars which are not visible to others, broken bones or body parts. It also includes pushing, throwing, beating, kicking, burning someone or some body parts, killing, using any weapon to cause harm, etc. It can be used as a witness against the wrongdoer as it can be clearly seen by the others.

### **iii. ISOLATION:**

It deals with the situation where the victim is not allowed to visit anywhere or is restricted by the abuser to meet any one of the family members or friends. In case of isolation the victim had to stay at home or sometimes in a room only.

### **iv. CONTROL:**

In this type of domestic violence the victim tries to put his control over the victim by restricting the choices of the victim. This can be done by putting restrictions on wearing clothes according to your own choice, visiting somewhere without permission, restriction on making friends, restricting rights of victim on their own children. In this every single thing is done according to the abuser only.

**v. ECONOMIC VIOLENCE:**

It deals with the economic harm caused by the wrongdoer to the victim. It involves damage to the property, restrictions on spending money, not dealing with economic responsibilities, restrictions on buying things sometimes buying essential things are also restricted.

**vi. VERBAL ABUSE:**

It deals with the abusive language used by the wrongdoer against the victim such as: blaming without reason, threatening every time even on small things, screaming all time without reason, manipulating every time by saying wrong words and controlling according to the instructions given by the abuser, humiliating every time and doing ridiculous behavior.

**3. CAUSES OF DOMESTIC VIOLENCE:**

There is large number of reasons in our society or we can say there are numerous reasons around the world which is causing and increasing domestic violence. Some of them which are majorly playing role towards the spread of domestic violence, these are:-

**a) Unemployment:**

People who are going through financial crisis due to not having proper place to work or they don't have the source of income are more likely to indulge in the practices of domestic violence. Among one-third of the women and children who do not have proper house to live and do not have proper food to eat are majorly involve in domestic violence and are mostly the sufferer of the activities falls under the criteria of domestic violence. It is mostly because they are not able to take the help of any legal authority. In this the abuser is more likely to prohibit their partner to work for income because they always wanted their partner to be dependent upon them. And also the abuser wanted the victim to face the circumstances of poverty so that they can harass the victim physically, emotionally and economically.

**b) Lack of Education:**

Education plays a vital role around the world toward the violence which is done in the society. Violence also deals with the family abuse or

domestic violence. Educated and uneducated people make a biggest difference towards the crime rates in the society. Lack of education among the women is making them less aware about their rights and liabilities and because of this the abuser feel free to take steps towards domestic violence. Educating women in the society tends to increase in awareness about their rights and also make them aware about unwanted sexual practices by their partner. Educating them also makes them feel independent and is more likely to take legal aids towards the abuser.

**c) Historic Factors:**

As it can be clearly seen that our society is a male dominance society and women are always kept behind the male. Even in the family women are more likely to follow the instructions of the male members of the family and it is one of the biggest reason towards the increase in domestic violence. Because in most of the family women are not allowed to take part in the decision making. This male dominance society is creating a huge impact on the violence. So, for decreasing the violence rate, the change in mindset among the people is needed.

**d) Cultural Factor:**

If marriage is done between two different cultures, it sometimes becomes difficult to adopt each other's cultural beliefs and because of this, miscommunication happens between the couples and after a short of time it indulges in the practice which falls under the criteria of domestic violence.

**e) Some others causes** of domestic violence are:- excess use of alcohol and drugs, sometimes self defense also becomes the reason, young parents as they have lack of patience and anger issues, unwanted behavior of spouse, relationship issues, communication gap between the partners, trust issues, etc.

**4. HOW TO STOP DOMESTIC VIOLENCE?**

Domestic violence can be prevented by adopting the basic practices in the society, these are:-

- Educating the youth of the society including women.
- Spread awareness about the basic rights and liabilities.
- Awareness about true and right sexual practices.
- Awareness about legal aids and laws.
- Avoiding forceful activities by partners.
- Stop doing things which are being imposed by the partners and forcing to do it without having own choice of doing that.
- Raise voice against humiliation.
- Consent of both the partner must be needed before doing things like sexual practices.
- Everyone should try to understand each other's religious practices and must respect each other's religious beliefs.
- Gender equality must be promoted in the society on a large scale.
- Walking away from a relationship is okay if it is not working.
- Love and affection must be shown to each other in a relationship.
- Trust issues must be resolved between the partners.

##### **5. LAWS REGARDING DOMESTIC VIOLENCE:**

Government has introduced a helpline number to resolve the problems related to domestic violence. This help line number is: - **"8793088814"**

Domestic violence becomes the biggest curse for our society which is increasing day by day. So it becomes highly necessary to avoid these practices and take steps towards stopping this. Government is also taking part towards resolving these problems.

If we talk about the laws relating to this, there are basically three laws which directly deal with it, these are:-

##### **I. The Protection of Women from Domestic Violence Act, 2005.**

It is a civil law which is for the purpose of protection to women in their own house, from men or other family members in the house who are causing harm to them. This law protects all the women who are facing any kind of violence

at their own house by their own family members. Family members include mother, father, grandmother, husband, intimate partner and living partner. This law not only provides protection to the married women but also protects them who are in live-in-relationship with their partners. Under this law, women can look or ask for protection against domestic violence, economical support, the right to live in their shared housing unit, and they can get sustentation from their wrongdoer in case they are living separately.

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

This is a criminal law that completely prohibits the taking and giving of dowry and also it deals with the punishment for them who are involve in the practices of dowry giving and taking. According to the dowry prohibition act, if anyone is involved in practices like giving and taking of money or some expensive things or some expensive ornaments in the name of dowry, can be punished by the law. The punishment of this is imprisonment up to 6 months or may be fine up to Rs. 5000.

##### **III. Section 498A of Indian Penal Code.**

The Indian Penal Code had provided special privileges to the women who are facing violence at home, so that they can fight for themselves and takes steps towards prohibition of domestic violence. This is a matter of criminal law, in which intimate partner or relatives of intimate partner or some other family members who are cruel to women had to face court proceedings. Cruelty refers to any action that weakens a woman and leads them to suicide or causes serious injury to her life or health – including mental health such as depression or anxiety. This also includes harassment of women on the name of dowry. If anyone has been found doing such activities or involve in such practices, people can be sent to jail for up to 3 years under this law.

##### **6. CONCLUSION:**

Domestic violence is one of the biggest problems which our society is dealing with. Most



common reasons of domestic violence are usage of alcohol and drugs on a large scale, dowry, illiteracy, extramarital affairs, and bad social life. Domestic violence is usually done by the victim's own family member and victim's own partner. Now, it's high time that we should take steps against domestic violence and determine the prohibition of domestic violence. There are so many laws introduced by the government regarding the prohibition of domestic violence. So, we need to make every one aware about the rights, liabilities and duties of the people. There is a lack of laws regarding men who are also facing domestic violence at some extent. So we also need to take steps towards protecting them. Domestic violence needs to stop whether it is against men or women. We should avoid living toxic life and make ourselves aware about the problems which we are facing with a proper solution.

**7. REFERENCE:**

1. <http://www.government.nl>
2. <http://www.en.wikipedia.org>
3. <http://domesticshelters.org>
4. <http://phycentral.com>
5. <http://marriage.com>
6. <http://vidhikarya.com>