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## **BREAKING THE SILENCE: Understanding Domestic Violence Against Women**

### **INTRODUCTION**

The widespread recognition of violence against women as a grave infringement of human rights and a significant public health issue has prompted the need for comprehensive data, particularly through systematic reviews, to inform policy and program recommendations.

Domestic violence targeting women remains a critical concern in India, where approximately one-third of women aged 15-49 have encountered physical abuse, and about one in ten have experienced sexual assault. Altogether, this means that 35 percent of women in this demographic have suffered from either physical or sexual violence, equating to millions of individuals enduring harm inflicted by spouses and other family members.

The National Family Health Survey-3 (NFHS-3) compiled data from both married and unmarried women aged 15-49 regarding their encounters with physical and sexual violence. Married women were also surveyed about their experiences with emotional abuse. The findings from NFHS-3 underscore the prevalence and severity of violence against women in India, particularly within the context of marriage.

### **Various forms of domestic violence exist, each inflicting different types of harm:**

**Physical violence:** This occurs when the perpetrator employs force against the victim, resulting in injury or pain. Examples include acts such as slapping, assault, or causing harm to one's health. Additionally, it encompasses tactics like sleep deprivation, coerced substance use, or denial of medical care by spouses. Shockingly, statistics from the World Health Organization reveal that 38% of female murder victims are killed by their intimate partners. Pregnant women in India are particularly vulnerable to physical violence.

**Emotional abuse:** This form of abuse, as defined by the Istanbul Convention, involves actions intended to severely damage a person's psychological well-being through coercion or threats. It encompasses behaviours like threats, constant criticism, isolation, public humiliation, controlling actions, harassment, and verbal insults. Emotional abuse often leads to anxiety, fear, emotional turmoil, depression, suicidal ideation, and eating disorders among women.

**Sexual assault:** According to the World Health Organization, sexual assault includes any unwanted sexual act or comment, or attempts to obtain such acts. It encompasses actions like sexual coercion, marital rape, unwanted sexual touching, or non-physical sexual harassment.

**Economic abuse:** Also known as financial abuse, this occurs when one partner exerts control over the other's access to economic resources. Economic abuse has been exacerbated during the lockdown period, as women have lost their jobs, heightening their dependence on the perpetrator's income. Examples include exploitation of the victim's resources, pressuring the victim's family to sell assets, or restricting the victim's access to education.

### **Various legal provisions exist to address domestic violence and protect women under Indian law:**

**Section 304B** of the Indian Penal Code: This section pertains to dowry deaths, providing legal recourse against the unlawful killing of women due to dowry-related harassment or demands.

**Sections 313-316** of the Indian Penal Code: These sections target female infanticide, criminalizing the act of forcibly terminating a woman's pregnancy.

**Sections 305-306** of the Indian Penal Code: These sections address abetment of suicide, making it punishable to incite or assist someone in taking their own life.

**Sections 340 and 349** of the Indian Penal Code: These sections concern wrongful confinement and restraint, respectively, providing legal remedies against unlawfully restricting a person's freedom.

**Section 498A** of the Indian Penal Code: This section addresses cruelty towards married women, encompassing acts of domestic violence. It allows for complaints to be lodged against perpetrators engaging in such behaviour.

India has implemented various laws aimed at safeguarding married women from domestic violence and dowry-related deaths:

### **Protection of Women against Domestic Violence Act, 2005:**

Enacted by the Indian Parliament, this law serves to shield women from various forms of domestic abuse including physical, sexual, emotional, and economic abuse. It extends protection not only to married women but also to those in live-in relationships and family members such as grandmothers and mothers. The Act empowers women to seek remedies against domestic violence, claim financial compensation, secure residence in their shared household, and demand maintenance from their abusers if separated. Its primary aim is to prevent women from being displaced from their homes and ensure their protection from abusers.

### **Section 498A of the IPC (Indian Penal Code):**

This criminal law targets husbands and their family members who subject women to cruelty. It specifically addresses harassment for dowry, whether physical or mental, considering forced sexual intercourse within marriage as cruelty. Section 498A encompasses intentional acts that compel women to contemplate suicide or pose a risk to their life, limb, or overall health, encompassing both physical and mental well-being.

### **Dowry Prohibition Act, 1961:**

This criminal law prohibits the exchange of dowry, a long-standing tradition in India. It imposes penalties on those giving, taking, or demanding dowry. Offenders can face imprisonment for up to six months or fines of up to five thousand rupees. The law aims to eradicate the practice of dowry and its associated abuses.

In the case of **Lalita Toppo v., the State of Jharkhand and Anr<sup>1</sup>**. (2018), heard by the Supreme Court of India, the Complainant, who was not legally married to the Respondent, sought maintenance under the Protection of Women from Domestic Violence Act, 2005. She believed she wouldn't be entitled to maintenance under Section 125 of the Code of Criminal Procedure, 1973.

The Complainant, involved in a live-in relationship with the Respondent and having a child together, sought support after their separation. Initially granted maintenance by the Gumla

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<sup>1</sup> Lalita Toppo v The State of Jharkhand and Anr 30<sup>th</sup> October 2018

Family Court, the decision was overturned by the High Court in favor of the Respondent. The Complainant then appealed to the Supreme Court.

The key issue was whether a live-in partner could claim maintenance under the Domestic Violence Act, 2005.

The Supreme Court, represented by a three-judge Bench including the then-CJI Ranjan Gogoi, Justices U.U. Lalit, and K.M. Joseph, ruled that a live-in partner could seek relief under the Domestic Violence Act beyond what is provided in Section 125 of the Code of Criminal Procedure. Referring to the Act's provisions, the Court stated that the Complainant could seek maintenance under the Act, even though not legally wedded, as it covers economic abuse as part of domestic violence.

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<sup>i</sup> [www.thenewsminute.com](http://www.thenewsminute.com)

[2]- <http://www.legalserviceindia.com>

[3]- [www.shethepeople.tv](http://www.shethepeople.tv)

[4]- [www.lawfarm.in](http://www.lawfarm.in)