

## UNOBTRUSIVE ABUSES FACED BY WOMEN – AN INTEGRATION OF PSYCHOLOGICAL AND LEGAL PERSPECTIVES

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### ABSTRACT

*Abuse can take many forms and involve much more than just physical and/or sexual abuse which makes the task of identifying and addressing it all the more difficult. Abuses like technological, emotional, financial, verbal, economical and psychological, are subtler and less obvious, which can cause them to go on for years without being noticed. The main motive of this paper is to give a wakeup call to all the women by firstly, elucidating on the identification of abusive behavior, secondly, providing alternative courses of action and lastly, an in-depth analysis of the Indian legal system in criminalizing such offences and remedies available for women. Researchers and policymakers, while addressing these overlooked abuses, have mostly ignored the size and intensity of the issue. However, it is important in spotting the area where change needs to be brought. For this we conducted survey research, 'Identification of Unobtrusive Abuse by Women and the Awareness of the Legal Aid Available' using a self-constructed questionnaire consisting of 16 items. The sample consisted of 250 women who belong to early and middle adulthood. Participants were selected through a convenience sampling method. The data was analysed, and the findings have been used for better understanding of the current scenario. Statutes such as Indian Penal Code, Domestic Violence Act and other legislations have criminalized certain abuses. However, in the actual implementation, how far these laws play a role when the issue is purely emotional and psychological and the need for evidence is a major aspect of our research. Predominately, these unrecognised abuses are coupled with or is a consequence of physical and/or sexual abuse; although do these abuses in themselves stand a chance in our judicial system is a question that has been addressed.*

**Keywords:** *Unnoticed Abusive Behavior, Women in India, Legal aid, Psychological aid, Criminalizing Unrecognised abuse.*

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## INTRODUCTION

*“There are wounds that never show on the body that are deeper and more hurtful than anything that bleeds”*

*-Laurell K. Hamilton*

Abuses that are not conspicuous and not brought into limelight are unobtrusive abuses. In cases of most domestic violence, the abuse is driven by a need for superiority in the relationship, hankering for control, exhibition of power due to the lack of personal powers and to cover up insecurities. Domestic violence is the most grievous, as it is caused silently within their own homes, which is apparently the safest place to commit such a crime. It usually starts off with subtle, being overly nice, overprotective in a devious manner reflecting in day-to-day situations like dropping by uninformed to check up, asking for receipts and bills for every expense, monopolization of the women's time, asking for passwords, shutting off or giving silent treatment during an argument. But eventually it takes a huge toll on a woman's mental and physical health. This may lead to short term effects like hopelessness, shame, guilt, moodiness as well as long term effects like insomnia, depression, anxiety, trouble maintaining relationships with others and exploitation of opportunities. Therefore, identification of these abuses at the right time, though difficult, is important.

The number of domestic violence cases reported in 2021, to the National Commission of Women amounts to 30864 cases which is comparatively 30% increased to what it was in 2020. Of the 30,864 complaints, the majority of 11,013 were related to the right to live with dignity which includes emotional abuse of women, and about 6,633 were domestic violence related. However, the actual number of Domestic Violence cases which go unreported is considerably higher. Some of the main reasons for such unreported cases are the lack of identification, the strong belief system of the society and social ostracization.

Most of these abuses experienced, despite being intense, are not acknowledged by the victim themselves. This is because of the belief system in India which teaches women to be submissive to men influenced by one's religion, the society's norms and the power dynamics of a family puts men as the primary power holder. Most of the misogynistic ideologies stem from India's age-old patriarchal and customary practices of the society.

Moreover, even the legal system of India originates from these belief systems which are nothing but customs; the king of all sources of law, used in many personal laws of India. Infact,our law’s origin also roots back to Manusmrithi which is misogynist quoting “Pitah Rakshathi Koumare, Pati Rakshathi Youvane, Puthro Rakshathi Vardaykye, Na sthree swathanthram arhati” – Initially, the father of the child protects during teenage, the husband of a woman protects during youth and the son of the mother protects during old age. Thus, a woman does not deserve or need freedom. This belief plays a role in judicial decisions giving a very minimal scope for progressive change. However, in the past 20-30 years, there have been many legislations like the Domestic Violence Act, the Indian Penal Code, the Dowry Prohibition Act etc. which work on prevention and protection of women against many abuses.

A critical analysis on the Legal and Judicial Remedies available for women who are affected by such abuses have been discussed in this paper.

## **SURVEY RESEARCH ON**

*“Identification of Unobtrusive Abuse Faced by Women and the Awareness of the Legal Aid Available”*

As we elucidated the importance and necessity of identification of these unnoticed abuses, it is very important to know the picture of the same in the current scenario. For this we conducted a Survey Research on *‘Identification of Unobtrusive Abuse by Women and the Awareness of the Legal Aid Available’*. The target population was women belonging to young and middle adulthood (18 – 60 years) selected based on the convenience sampling method. The questionnaire was administered in offline mode from various public places across India like beaches, parks etc. The data collection tool employed was a self-constructed questionnaire consisting 16 items. The questionnaire was administered to a sample of 250 women (125 youngadults and 125 middle adults). The respondents were confirmed with the confidentiality of theirresponses. Once the data was collected, the responses were coded, tabulated, analysed and interpreted. Percentage analysis was used for statistical interpretations.

## **RESULTS AND DISCUSSIONS**

### **PSYCHOLOGICAL ABUSE**

Psychological or mental abuse is typically characterised by distorting someone’s sense of reality. This is also called gaslighting. The goal of the psychological abuser is to convince the victim that they are crazy or incompetent. The abuser might, for example, insist that some event happened in a much different way than she remembered, to the extent that basic, verifiable facts about the

situation were different.<sup>1</sup>

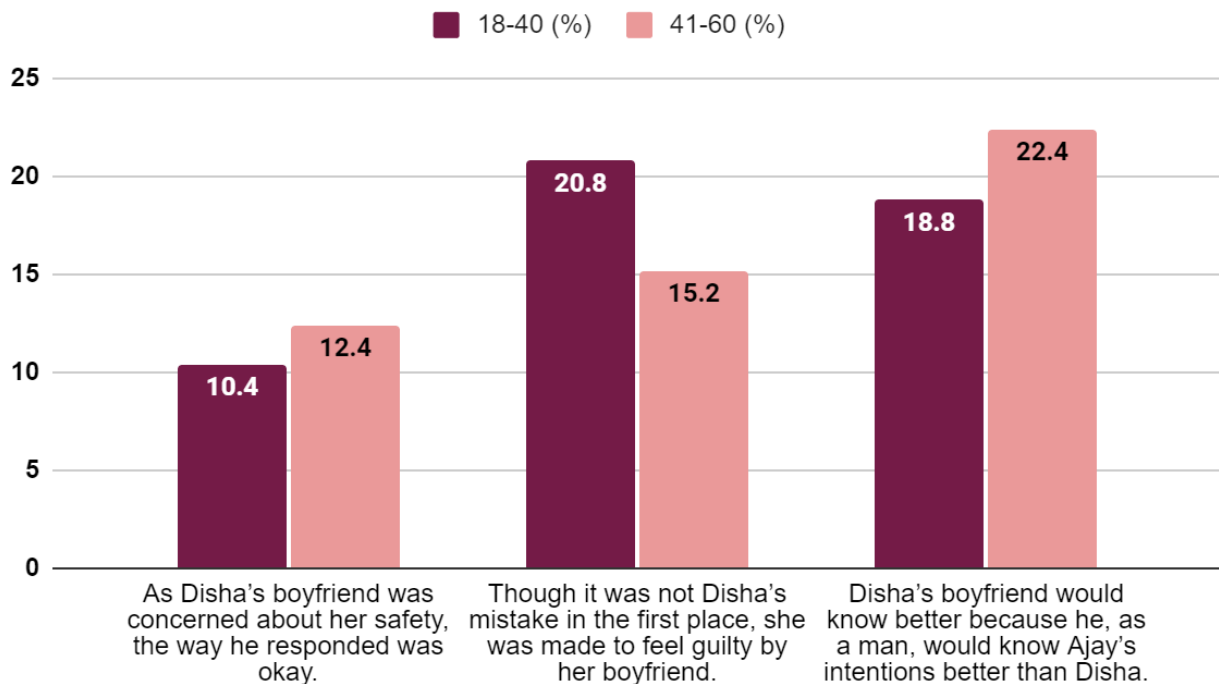
**Table 1**

*Distribution of Respondents Based on Identification of Gaslighting*

	No. of Respondents	Percentage
<b>Q. Disha went out with her friend Ajay, and later realised that his physical contact made her feel uncomfortable. Later, her boyfriend said, “You did not react to him immediately which shows that you were okay with it. Learn your limits with your friend before you meet him again.” She then decided to meet Ajay, giving him the benefit of doubt. However, her boyfriend’s opinion haunted her throughout the meeting and she questioned her judgements and felt guilty. What is your opinion about this situation?</b>		
As Disha’s boyfriend was concerned about her safety, the way he responded was okay.	57	22.8%
Though it was not Disha’s mistake in the first place, she was made to feel guilty by her boyfriend.	90	36%
Disha’s boyfriend would know better because he, as a man, would know Ajay’s intentions better than Disha	103	41.2%
<b>TOTAL</b>	<b>250</b>	<b>100%</b>

<sup>1</sup> ORIGINS BEHAVIOURAL HEALTHCARE, <https://www.originsrecovery.com/is-there-a-difference-between-emotional-abuse-and-psychological-abuse/> (Last visited: March 3<sup>rd</sup> 2022)

Figure 1



In the given situation it is very clear that it was Disha's boyfriend who gaslit her into feeling guilty and judging her own decisions but then only 36% of the population identified the psychological abuse. 64% think that her boyfriend's actions were right, in that 41.2% said being a man her boyfriend would have known Ajay's intention better and 22.8% think that her boyfriend's actions were from a place of concern for her safety which reflects an androcentric (centred to men; viewing the world from a male point of view) society and assumptions.

## VERBAL ABUSE

Verbal abuse is when someone uses their words to assault, dominate, ridicule, manipulate, and/or degrade another person and negatively impact this person's psychological health.<sup>2</sup>

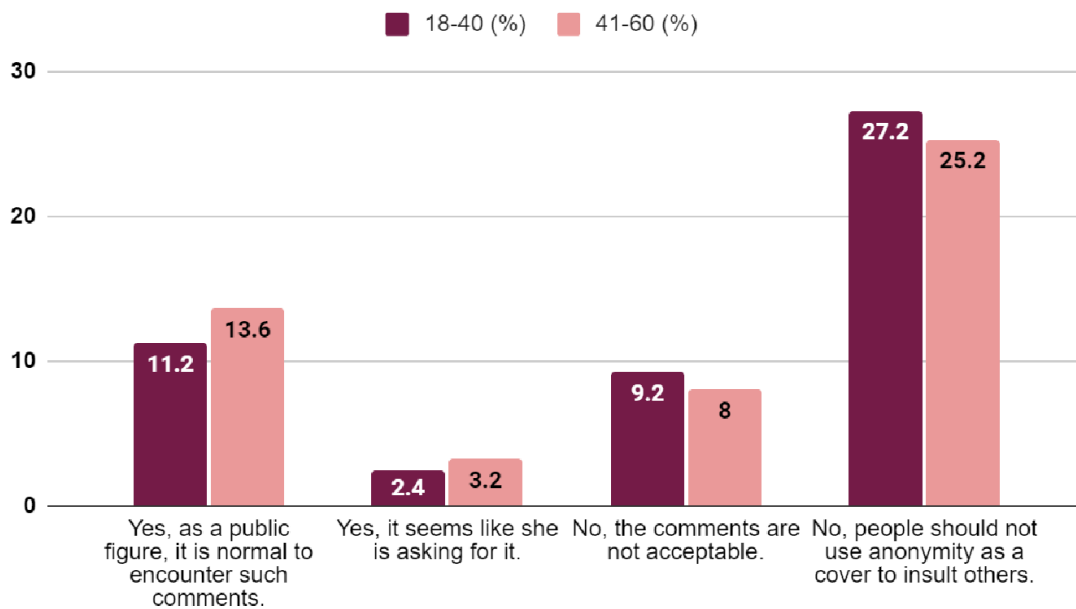
<sup>2</sup> Sherri Gordon, *What is Verbal Abuse*, VERYWELL MIND (Last visited: Mar. 3, 2022, 12:23 PM) <https://www.verywellmind.com/how-to-recognize-verbal-abuse-bullying-4154087>

**Table 2**

*Distribution of Respondents Based on Identification of Abusive Usage of Words*

<b>Q. In an interview, actress Yashika is asked for her opinion on the hate comments insulting her figure and the way she dresses in her Instagram pictures. She positively responded that the comments were expected and that they bring her popularity and benefits. Do you think such social-media comments are okay?</b>	<b>No. of Respondents</b>	<b>Percentage</b>
Yes, as a public figure, it is normal to encounter such comments.	62	24.8%
Yes, it seems like she is asking for it.	14	5.6%
No, the comments are not acceptable.	43	17.2%
No, people should not use anonymity as a cover to insult others	131	52.4%
<b>TOTAL</b>	<b>250</b>	<b>100%</b>

**Figure 2**



From the above graph, it is seen that only 17.2% of the population identified the verbal abuse in the given situation. 24.8% said it is okay for a celebrity to encounter such comments, 52.4% said that people using anonymity to say such things are wrong and 6.4% said that she is asking for it. Not only celebrities but women of all classes encounter verbal abuse, in or out social media. This reflects the people's mind not being able to gulp down that, dressing up however one wants is her right and reflects how normal it has been for people to verbalise these thoughts directly to a woman. This as a by-product could promote rape culture in the society.

[Rape Culture - A society or environment whose prevailing social attitudes have the effect of normalising or trivialising sexual assault and abuse like objectification of women's bodies, sexually explicit jokes etc.]<sup>3</sup>

Though Verbal abuse sounds so trivial and negligible, it has a huge impact in shaping a society's mindset.

## **EMOTIONAL ABUSE**

Emotional abuse refers to the type of abuse that affects how someone feels. According to a journal article by K.P O'Hagan, "emotional abuse impairs the emotional life and impedes emotional development." Therefore, when this takes place in an intimate relationship, stunted emotional growth for each partner becomes a huge problem<sup>4</sup>.

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<sup>3</sup> Maddy Crehan, Feminist Glossary, ROSIE BLOG (Last visited Mar. 3, 2022, 12:35 PM) <https://rosie.org.au/blog/feminist-glossary/>

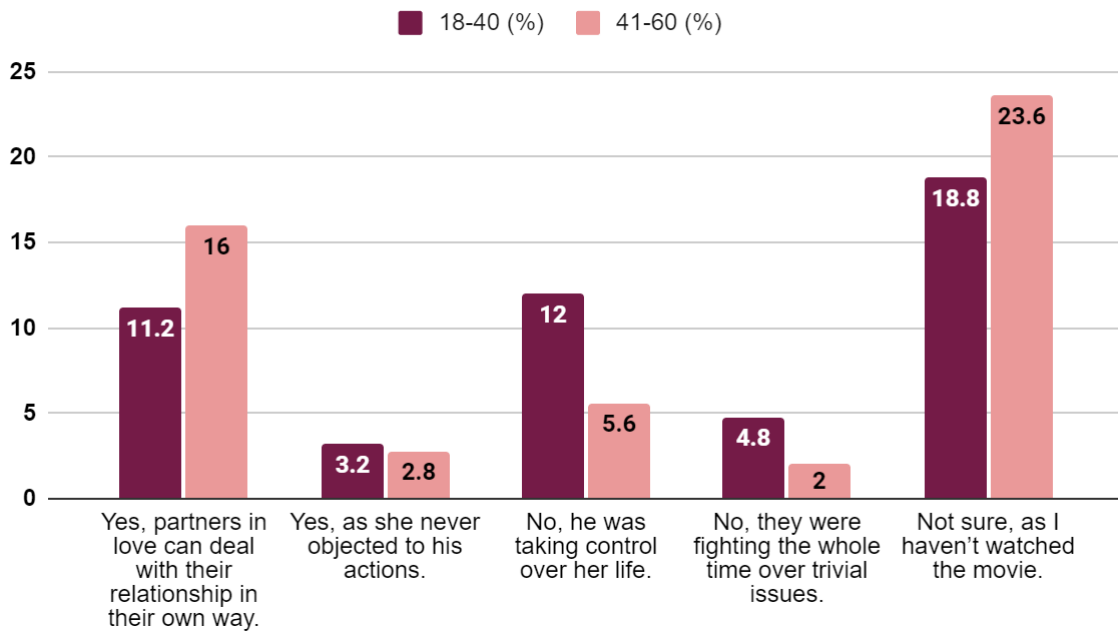
<sup>4</sup> JARED JUSTICE ATTORNEY AT LAW, P.C, <https://www.jaredjustice.com/blog/the-difference-between-emotional-and-psychological-abuse/> (Last visited: march 3<sup>rd</sup> 2022)

**Table 3**

*Distribution of Respondents Based Identification of Men's Emotional Control Over a Woman's Life in the Name of Love.*

Q. 'Arjun Reddy' ['Kabir Singh' / 'Aditya Varma'], is a famous and celebrated superhit romantic movie. Do you think that the relationship of the main characters in the movie was healthy?	No. of Respondents	Percentage
Yes, partners in love can deal with their relationship in their own way.	68	27.2%
Yes, as she never objected to his actions	15	06%
No, he was taking control over her life	44	17.6%
No, they were fighting the whole time over trivial issues.	17	6.8%
Not sure, as I haven't watched the movie.	106	42.4%
<b>TOTAL</b>	<b>250</b>	<b>100%</b>

**Figure 3**





*“Until the lion learns how to write, every story will glorify the hunter.”*<sup>5</sup> - Dr. J. Nozipo Maraire. Arjun Reddy/ Kabir Singh/ Aditya Varma is a movie that glorifies misogyny. From the beginning of the movie, it is the hero who takes control over the heroine’s life and decides what classes she should take, who she should sit with, also kisses her forcefully without her consent. But the movie brilliantly glorified the protagonist in a subtle way by rationalising that a man who is brilliant and good looking can misbehave without being questioned. From the bar graph, it is evident that apart from the people who haven't watched the movie, the majority (27.2%) thinks that partners in love can deal with their relationship in their own way. This implies how sexism has been internalised among people and reflects on the people's mindset that anything passes off in the name of love, which is the main reason why people fail to detect abuse.

## **TECHNOLOGICAL ABUSE**

Technology-facilitated abuse is a form of controlling behaviour that involves the use of technology as a means to coerce, stalk or harass another person.<sup>6</sup>

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<sup>5</sup> CENTRE FOR SOCIAL RESEARCH, <https://www.csrindia.org/feminist-glossary/> (Last visited: March 3<sup>rd</sup> 2022 )

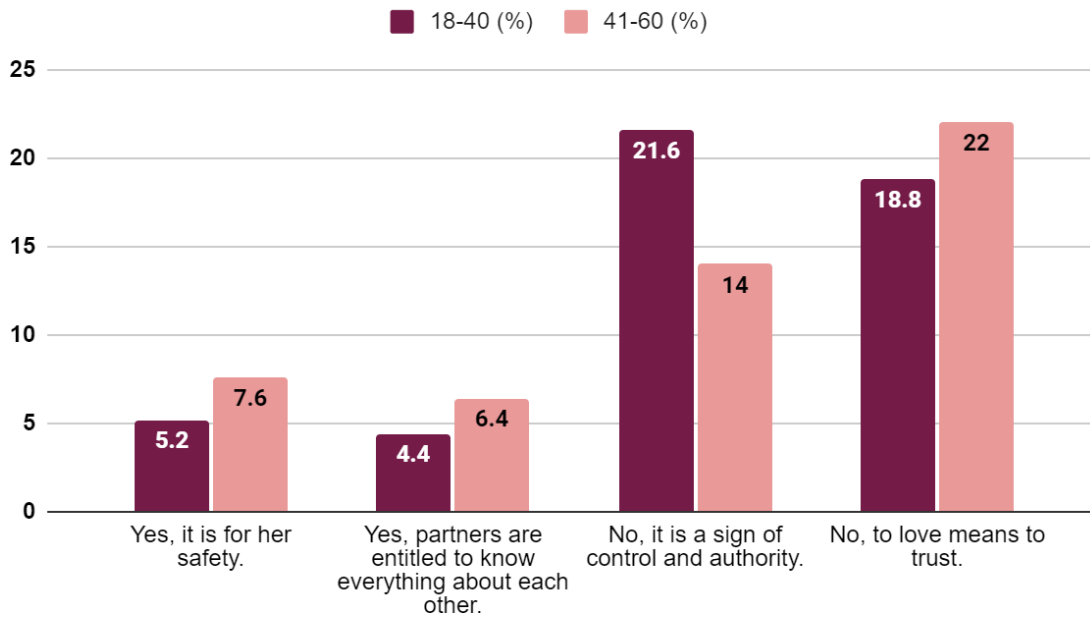
<sup>6</sup> SAFE STEPS FAMILY VIOLENCE RESPONSE CENTRE, <https://www.safesteps.org.au/understanding-family-violence/types-of-abuse/technology-facilitated-abuse/>, (Last visited: March 3<sup>rd</sup>, 2022)

Table 4

*Distribution of Respondents Based on Identification of Partner's Control with Technology*

Q. Ramya's husband reads her texts and browses through her social media activities constantly to make sure that she doesn't have to deal with cyberbullying and random sexual messages from strangers. He also installed a location tracking app while she was asleep. Do you think it is okay for a husband to do so?	No. of Respondents	Percentage
Yes, it is for her safety.	32	12.8%
Yes, partners are entitled to know everything about each other.	29	10.8%
No, it is a sign of control and authority.	87	35.6%
No, to love means to trust.	102	40.8%
<b>TOTAL</b>	<b>250</b>	<b>100%</b>

Figure 4



From the above graph, only 35% of the population said the husband's actions were a sign of control and authority. 64.4% did not identify the abuse, in that 12.8% said the husband's actions were right as it was for her safety and 10.8% said partners are entitled to know everything about each other. But these reasons definitely cannot justify the husband's actions because even if he cares about her safety or wants to know everything that's happening, he could educate her about cyberbullying or take any other measure and in no situation is it acceptable to do it behind her back.

### **PSYCHOLOGICAL AID FOR EMOTIONAL, VERBAL, PSYCHOLOGICAL AND TECHNOLOGICAL ABUSE**

From the above survey, it is evident that there is huge lag in identification of these abuses. That is because, these abuses start off in a very subtle way and eventually tend to get normalised in one's life and in the get-go, it is difficult to detect, also it may wax and wane; sometimes being more intense and other times being less frequent. But irrespective of the intensity, it may have huge negative effects on one's mental health to the extent where one starts to question their own reality and erode their sense of self. Also, victims of emotional abuse are more likely to attract more abusive people than not in their future friendships and relationships. Hence, seeking counselling and therapy at the right time is necessary.

The first step would be admitting to oneself that they are in an abusive relationship, stop hoping that the abuser would change and accept that their response to the abuser's action is the only change possible. Also, building a support network by contacting friends & family to seek help. There are free counselling services and a women helpline for domestic abuse (contact 181) whose service is available 24/7.

There are various treatment facilities provided for victims of emotional abuse like

- Individual therapy- Aimed to improve a person's self-esteem and gain autonomy
- Group therapy- Survivors of similar abuses gather to share their story and support each other.
- Journaling- Powerful tool to express, heal and free oneself from the effects of trauma attached.
- Psychotherapy- Talk therapy
- Marital counselling- To help the abuser witness the victim's feeling; aims to work the relationship out.

- Emotional trauma counselling- To help the victims work through the past traumatic events and accept them.
- Interpersonal skills- To improve the communication and interaction of both the partners.

Leaving an emotionally abusive relationship is as difficult as staying in one, but if things get severe one will have no other option left than to break the abuser's ideology that 'women will not leave no matter what'.

## FINANCIAL ABUSE

Financial abuse involves a perpetrator using or misusing money which limits and controls their partner's current and future actions and their freedom of choice. It can include using credit cards without permission, authorizing contractual obligations in their partner's name, and gambling with family assets.<sup>7</sup>

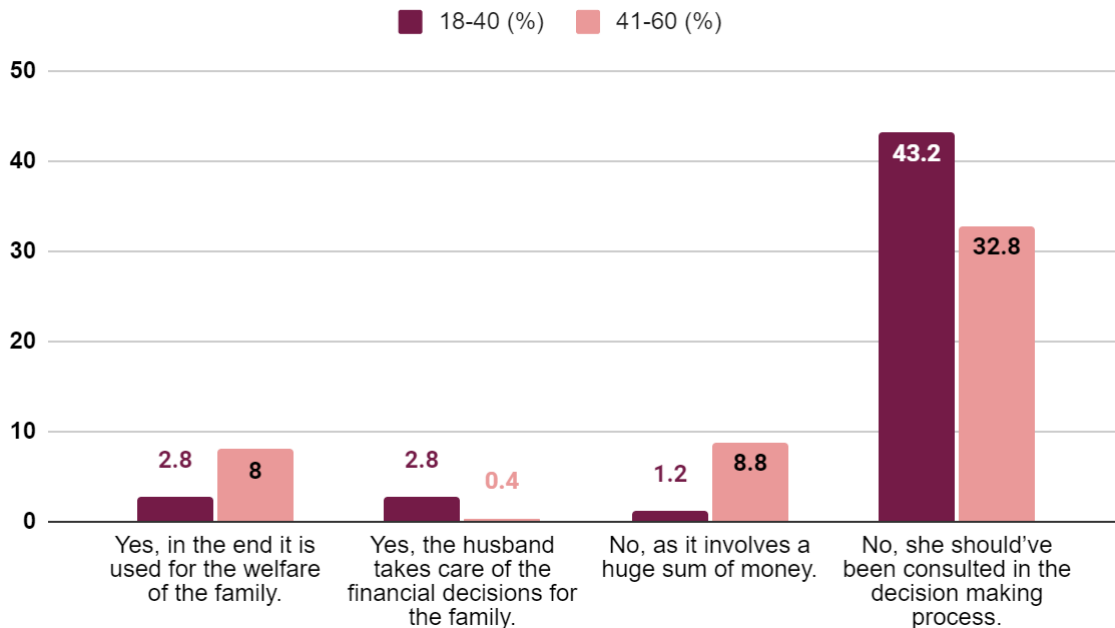
**Table 5**

*Distribution of Respondents Based on Consent Regarding Money Related Decision*

<b>Q. "Your neighbour Nisha's husband opened a bank account, got credit card access, and took a loan in her name. He also asked her to sign papers to sell her inherited properties. However, she was not aware of the reasons and consequences of these actions. Do you think it is okay for a husband to make such decisions?"</b>	<b>No. of Respondents</b>	<b>Percentage</b>
No, she should've been consulted in the decision making process.	190	76%
Yes, the husband takes care of the financial decisions for the family.	08	3.2%
No, as it involves a huge sum of money.	25	10%
Yes, in the end it is used for the welfare of the family.	27	10.8%
TOTAL		100%

<sup>7</sup> WOMENS AID UNTIL WOMEN AND CHILDREN ARE SAFE, <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/financial-abuse/> (Last visited: March 3<sup>rd</sup> 2022)

Figure 5



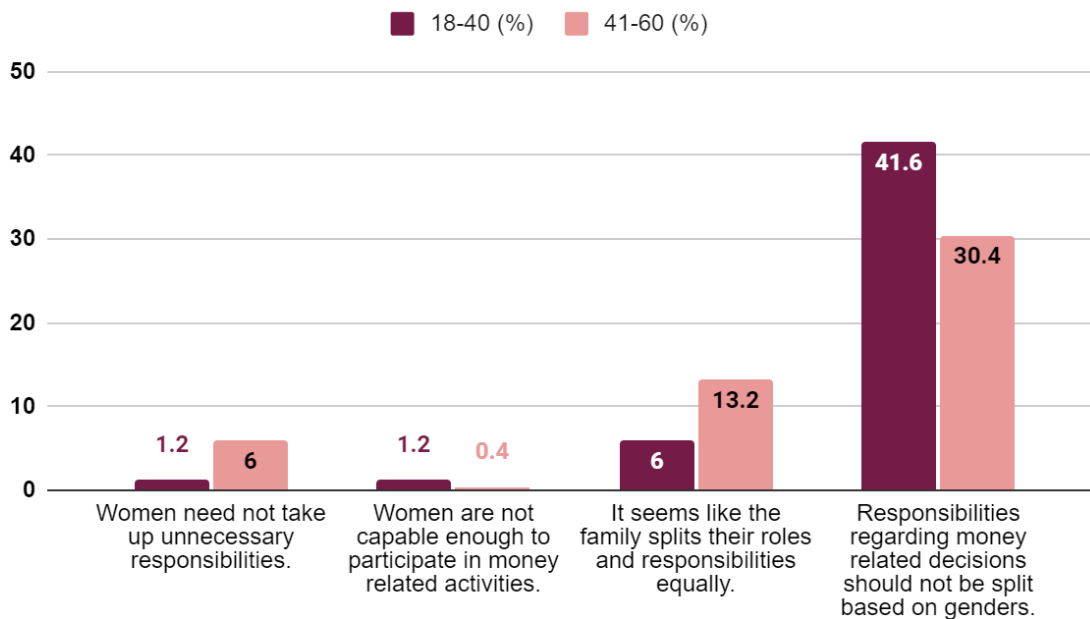
From the bar graph, it can be observed that the majority, a total of 76%, have identified the financial abuse happening in the situation by saying she should have been consulted in the decision-making process. But then, 10.8% said what the husband did was right as it is used for the family and 3.2% said that the husband takes care of financial decisions which implies that they are prone to being financially abused by their family members by exploiting the shared assets and money in the name of family's welfare, where in most cases, they might be unaware that they are victims of these abuses. There is no significant difference between the two age groups. 10% think that the husband's actions are wrong as it involved huge money. This can imply that they were not able to identify the abuse entirely and are not aware of the importance of consent irrespective of the amount of money involved.

**Table 6**

*Distribution of Respondents Based on Women's Conditioning Concerning the Capability for Handling Finances*

Q. Geetha has always helped her family in all ways except for money withdrawal & bank related transactions, for which she was not trusted. So these were taken care of by her brother. After her wedding, even when the family's situation demanded, she did not take interest and responsibility in handling any money related matters. What is your opinion about this situation?	No. of Respondents	Percentage
Responsibilities regarding money related decisions should not be split based on genders.	180	72%
Women are not capable enough to participate in money related activities.	4	1.6%
It seems like the family splits their roles and responsibilities equally.	48	19.2%
Women need not take up unnecessary responsibilities.	18	7.2%
<b>TOTAL</b>	<b>250</b>	<b>100%</b>

**Figure 6**



From the bar graph, it can be observed that the majority, a total of 72%, have rightly said that these responsibilities should be split irrespective of one's gender. But 7.2% of the population said there is no necessity for women to participate in money matters and 1.6%, said women do not have the capability to handle money matters which comes from a deep-rooted conditioning from childhood due to the denial of opportunities and repeated preaching. 19.2% of the population thinks that the family split the roles equally which is definitely not true as the family did not trust Riya with money, and this implies that these women are trained and manipulated to feel wary of getting involved.

## **ECONOMIC ABUSE**

A developing consensus defines economic abuse as control over a person's ability to obtain, use, or sustain access to economic resources in a manner which diminishes the victim's capacity to support herself, threatens her economic security and potential for self-sufficiency, or forces her to depend on perpetrators financially.<sup>8</sup>

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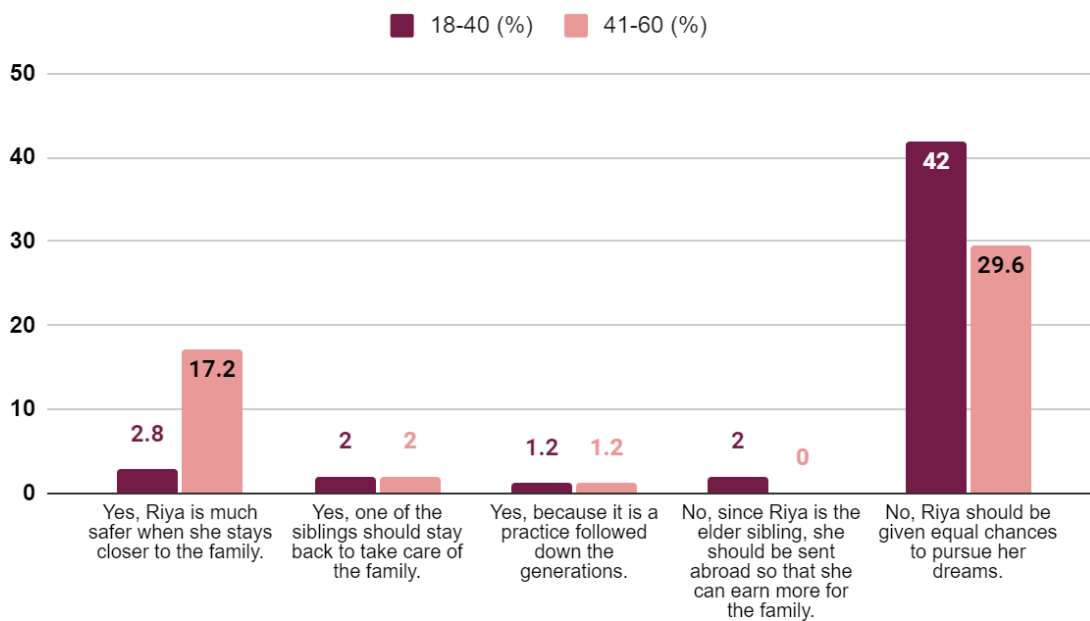
<sup>8</sup> Kanougiya, S., Daruwalla, N., Gram, L. et al, *Economic abuse and its associations with symptoms of common mental disorders among women in a cross-sectional survey in informal settlements in Mumbai, India.*, 21, 842 (2021) BMC PUBLIC HEALTH

**Table 7**

*Distribution of Respondents Based on Equal Opportunities Given to Pursue Career*

<b>Q. Varun is Riya’s younger sibling. After completing his education, Varun is sent abroad by their family to earn more while Riya was told to look for job opportunities within their locality. Do you think Riya should stay within her locality?</b>	<b>No. of Respondents</b>	<b>Percentage</b>
No, Riya should be given equal chances to pursue her dreams.	179	71.6%
Yes, Riya is much safer when she stays closer to the family.	50	20%
Yes, one of the siblings should stay back to take care of the family.	10	04%
Yes, because it is a practice followed down the generations.	06	2.4%
No, since Riya is the elder sibling, she should be sent abroad so that she can earn more for the family.	05	02%
<b>TOTAL</b>	<b>180</b>	<b>100%</b>

**Figure 7**





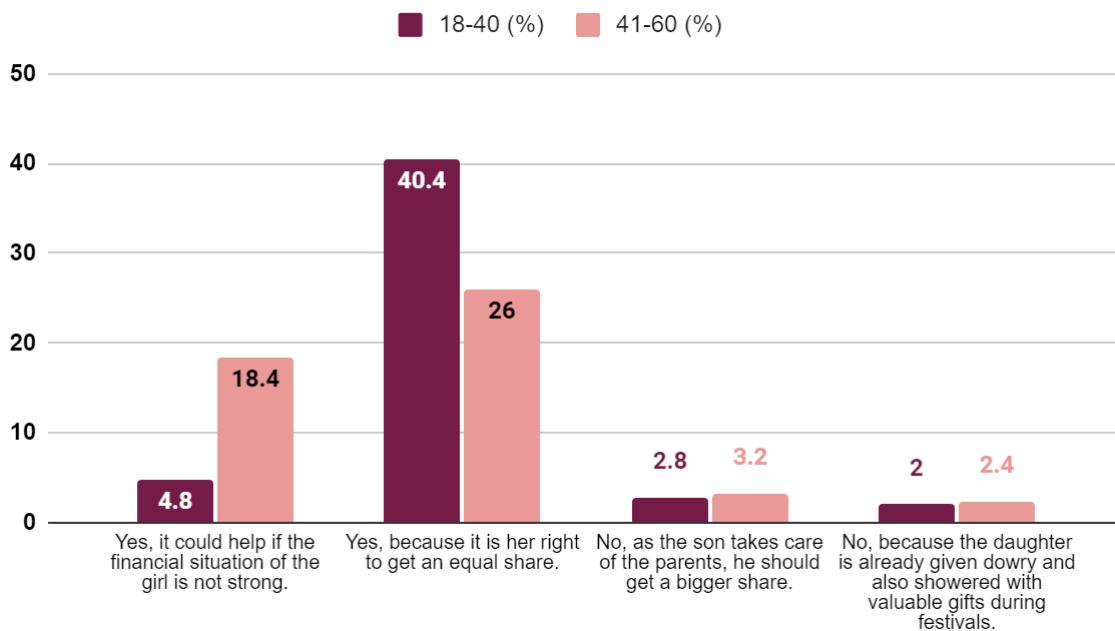
From the table above, the majority, 71.6% identified the economic abuse in the given situation. But 26.4% think that Riya should not be given equal chances, in that 20% think that she is safe only near her family, 4% think one of the siblings should stay back to take care of their parents and 2.4% said that's how it has been followed down the generations. 2% said that just because she is the eldest one, she should be sent to earn more money just for the sake of the family this implies that the true necessity for equal chances have not been understood. Interfering and violating the basic rights of women to education and continuous denial of employment rights and opportunities like these have a long-term impact such as gender wage gap, and in general would lower economic standard of living for women which hinders her scope for growth to her maximum potential.

**Table 8**

*Distribution of Respondents Based on Equal Rights Over Ancestral Properties*

<b>Q. According to the Hindu Succession Act, 2005 a woman has equal rights over ancestral properties. Do you think the change in the Act was necessary?</b>	<b>No. of Respondents</b>	<b>Percentage</b>
Yes, it could help if the financial situation of the girl is not strong.	58	23.2%
Yes, because it is her right to get an equal share.	166	66.4%
No, as the son takes care of the parents, he should get a bigger share.	15	06%
No, because the daughter is already given dowry and also showered with valuable gifts during festivals.	11	4.4%
<b>TOTAL</b>	<b>250</b>	<b>100%</b>

Figure 8



From the bar graph above, the majority, 66.4%, thinks that it is a right of a woman to get equal share in the ancestral properties. But then 10.4% thinks that the law is unnecessary because 6% thinks in India the son taking care of their parents after marriage makes him eligible for extra property and 4.4% thinks that as dowry and gifts during festivals given compensates, a woman cannot ask for equal share. 23.2 % of the population said that the law is necessary but only if the women's financial situation is not sound enough. This implies that they did not understand the concept of equality to the right extent. When a woman is exploited of resources, it creates a vicious cycle where her ability to deal with or leave an abusive relationship gets limited.

## PSYCHOLOGICAL AID FOR FINANCIAL AND ECONOMICAL ABUSES

Unlike psychological, emotional, verbal and technological abuse, people did identify the financial and economic abuse. 76% understood the importance of consent in making financial decisions and 72% understood the role of conditioning from childhood in the stereotypical notion that women do not have the necessity or are not capable enough to handle money matters. Similarly, 71.6% identifies the economic abuse in not giving equal opportunities for women to pursue their career and 66.4% identifies the economic abuse in not giving women equal share in ancestral properties.

But then in another question asked, “If you were ever in any of the above situations, what would your next step be, considering your family and personal situation”, 45.6% said that they would try to sort it out but the let go of the problem just for the sake of the family and 11.6% said they would stay silent as in India most women go through this. If every woman decides to act against these issues, there would be no happy marriages. This clearly suggests that in case these abuses can’t be stopped just with awareness about identification but also the courage to come out. In financial and economic abuse, the recovery is not only from emotional distress caused but also the financial resources lost hence it doesn't end when the relationship does.

There are free women domestic violence helplines (contact number 181) to avail psychological help. Also, they help with contacting social workers to get her in touch with legal authorities and help her through the process.

After coming out of the relationship, it is even more difficult for victims of economic abuse to live financially independent hence vocational training and employment opportunities are available for her to sustain her daily living. There are also women shelter homes available for immediate refuge.

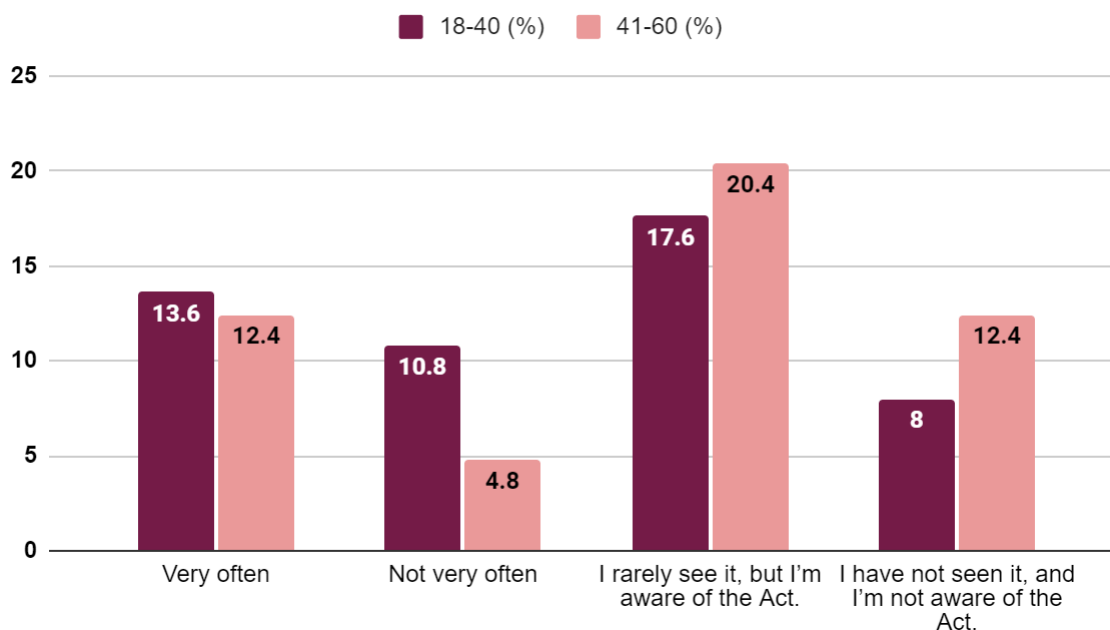
## **LEGAL PERSPECTIVE OF OBTRUSIVE ABUSE**

### **SURVEY RESULTS ON THE IDENTIFICATION OF LEGAL AID AVAILABLE**

The survey conducted also contained questions to identify women’s knowledge on the legal aid available and their awareness of the implications of the law.

Firstly, ‘*How often have you come across the Protection of women from Domestic Violence Act, 2005 (herein referred to as “the Act”) in public media such as television, cinema theatres, radio and the newspapers?*’ was questioned and the following were the results.

Figure 9



38% of the total women stated that despite not coming across the Act frequently, they are aware of the same. And 26% (1/4<sup>th</sup>) of the total individuals have come across the Act in Public Media which is a very minimal number.

Secondly, 'Who can be punished for abusing women under the Domestic Violence Act, 2005?', Majority of the individuals (43.2%) stated that they were unaware of the specifications of the Domestic Violence Act.

And lastly, 'Against what kinds of offences does the Domestic Violence Act, 2005 protect women?', 1/3<sup>rd</sup> (34.4%) of them identified the right answer stating Domestic Violence includes Emotional, Verbal, Economical and Physical and Sexual Abuses. Whereas 1/3<sup>rd</sup> (34.4%) of them were not sure about the specification of the Act. Thus, it is evident from the survey research that majority of the individuals have not seen any awareness messages from the Government in public media, and despite many people stating that they are aware of the Act in general, are not aware of the basic contents of the Act which is a very important aspect women should be aware of.

## LAWS MUST EVOLVE WITH TIME IF SOCIETY PROGRESSES

A Crime 200 years ago might not be a crime today and a crime today wouldn't have been a crime several years ago. The legislative system and the judicial system should evolve with time to match the people's mindset, behavior, practices etc. Very recently, in the Supreme Court

judgment, it was held that law must evolve with the times if societies are to progress.<sup>9</sup> Thus, it is evident that the legal system should change from time to time to fit to the progressive mindset change of the society.

## **BROAD HEADINGS OF THE LEGAL AID AVAILABLE TO WOMEN IN INDIA FACING UNOBTRUSIVE ABUSES**

The Constitution of India being the supreme law of the nation, specifies and ensures equal treatment of all the genders and provides all necessary aid to women and children in need. In the case of *Gandhi v. India*<sup>10</sup>, it was held as follows:

*“Article 21 of the Indian Constitution, which guarantees the Right to Life, states that such a right extends beyond a mere freedom from physical restraint and rather encompasses a plethora of rights that contribute to individuality.”*

To add on to this, India is a country which has many statutes and legislations for the prevention of violence against women and protection against many abuses. However, most of these legislations are concerned with the physical and/or sexual abuse or cruel treatment which in most cases are extremely grave and evident such as the demand of dowry, physical violence etc. Despite the Domestic Violence Act being wide and inclusive, whether the provisions are exhaustive in nature is addressed below. A wide analysis on the legal status of such abuses is explained as follows.

## **EMOTIONAL ABUSE AND/OR MENTAL CRUELTY IN INDIA**

Emotional Abuse is a form of abuse which causes a fear factor, control and exposing the victim to physiological trauma, depression, etc. Mental cruelty is the conduct that causes another person to suffer (mentally) without any physical involvement or aggression. Some of the statutes that identify mental cruelty as a crime are given below.

In 1983, Section 498-A (Criminalizing Domestic Violence), was added to the Indian Penal Code which specifically covers cruelty against married women by their spouses or families of their husbands. This Section covers psychological torture such as threatening, which amounts to mental cruelty and the convict will be subjected to imprisonment for a term which may extend up to 3 years or fine or both.

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<sup>9</sup> State of Haryana v. Mukesh Kumar & Ors. (2011) 10 SCC 404.

<sup>10</sup> Gandhi v. India, A.I.R. 1978 S.C. 597.

According to Section 3 of the Act, the definition of mental cruelty is inclusive. Usually, when a husband is guilty under the Act, he is also found guilty under Section 498A of the IPC, 1860.

The Supreme Court, in *Rupali Devi v. State of UP & Ors.*<sup>11</sup> underscored this point by stating that the definition of domestic violence given under the 2005 Act, deals with damage or injury to the life, limb or health of the wife, whether physical or mental, and therefore signifies a close connection with explanation (a) and (b) of Section 498A of the IPC which define cruelty.

Under the Section 13(1) (i)(a) of the Hindu Marriage Act, 1955 cruelty is also a ground for divorce. Either of the parties i.e., say husband and/or wife, would have the right to seek a divorce claiming the person was subjected to cruelty.

## MARITAL RAPE

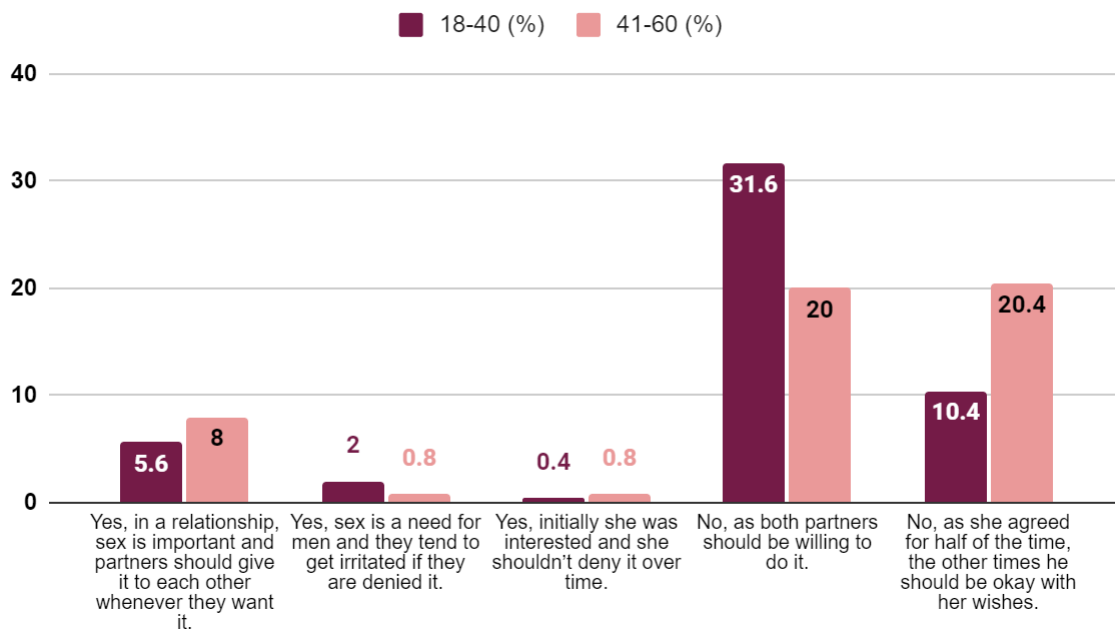
**Table 9**

*Distribution of Respondents Based Identification of Unwilling Sex by Intimate Partner*

<b>Q. Rahul and Meera are a married couple in a loving &amp; sexually intimate relationship. But eventually, for all the times they had sex, she was interested in it for only half of the times and during the other half she would do it anyway due to the fear of him getting irritated in case she denies. Do you think her actions are okay?</b>	<b>No. of Respondents</b>	<b>Percentage</b>
Yes, in a relationship, sex is important and partners should give it to each other whenever they want it.	34	13.6%
Yes, sex is a need for men and they tend to get irritated if they are denied it.	07	2.8%
Yes, initially she was interested and she shouldn't deny it over time.	03	1.2%
No, as both partners should be willing to do it.	129	51.6%
No, as she agreed for half of the time, the other times he should be okay with her wishes.	77	30.8%
<b>TOTAL</b>	<b>250</b>	<b>100%</b>

<sup>11</sup> *Rupali Devi v. State of UP & Ors.* [Criminal Appeal No.71 of 2012].

Figure 10



From the above survey, 51.6% of the population has identified the importance of consent in an intimate relationship. If the woman is compelled or forced or does not consent to the act of sexual intercourse, it amounts to marital rape. This causes psychological distress to women. Marital rape is still not recognized as a crime in India. Section 375 of the Indian Penal Code defines rape as against one's will and without one's consent. But under the 2<sup>nd</sup> exception of section 375, if sexual intercourse or sexual acts are committed by a man with his wife and the wife not being under the age of 15, does not amount to rape. It is a sad reality that a country with about 1.5 billion population hasn't criminalized marital rape. However, the Kerala High Court, in its judgment, held that marital rape is a mental and physical cruelty and grounds for filing divorce. Despite this, the Indian law-makers are yet to criminalize marital rape.

## TECHNOLOGICAL ABUSE AS A CRIME IN INDIA

Technological abuse is mostly used as a tool by the abusers to control, monitor, blackmail, threaten and stalk a woman's behavior by any electronic means. In India, all these acts through any electronic mode are criminalized under statutes such as the Indian Penal Code, the IT Act, etc. The most frequently used term for a similar action is Cyber bullying. Despite not having a specified cyber law in India, Cyber Bulling can be defined as "an aggressive, intentional act

or behavior that is carried out by a group or an individual, using electronic forms of contact, repeatedly and overtime against a victim who cannot easily defend him or herself.”<sup>12</sup>

Though the IPC (Indian Penal Code, 1860) does not define cyber bullying or technological abuse, various provisions of the IPC and the IT Act (Information Technology Act, 2000) deals with such abuses. Prior to the Criminal Law amendment 2013, there were no laws particularly dealing with online harassing or any other connected act. In 2013, the IPC was amended to include online harassing in section 354A-354D which provides for the punishment of cyber stalking and bullying against women. While interpreting Section 354D of IPC, it is evident that the Section penalizes offences of both offline and online stalking, with no discrimination on the presence or absence of the ‘Cyber’ component. Abuses such as Stalking<sup>13</sup>, Trolling<sup>14</sup>, Hacking<sup>15</sup>, making false/fake profile<sup>16</sup>, leaving private photos or videos online<sup>17</sup> and similar acts can be punished under laws such as IPC, IT Act and the Indecent Representation of Women Act, 1986.

Many judgments in India are in favor of the victims with regards to the online harassment. Especially after the introduction of Facebook, people use anonymity as a cover to commit such crime in ease<sup>18</sup>. Also, in many cases, the abusers are not strangers but are very familiar to the victim such as father, husband and even boyfriend. One such case where the boyfriend misuses the women’s pictures and videos was also punished under the IT Act<sup>19</sup>. Thus, despite technological abuse not being covered specifically under Section 3 of the Domestic Violence Act, other legislations do consider technological abuse as a crime and is punishable in India.

## **VERBAL ABUSE AS A CRIME IN INDIA**

Human beings are sensitive creatures and words are one of the strongest weapons which can be used to put down or even have a long-term psychological impact on them. Verbal abuse could be used against women to make them feel inferior to the men of the family. However, there are some laws such as the Domestic Violence Act, the IPC and the IT act which protects women from such verbal abuses.

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<sup>12</sup> Smith, P. K., del Barrio, C., & Tokunaga, R. S. (2013). *Definitions of bullying and cyberbullying: How useful are the terms?* In S. Bauman, D. Cross, & J. Walker (Eds.), *Routledge monographs in mental health. Principles of cyberbullying research: Definitions, measures, and methodology* (p. 26–40). Routledge/Taylor & Francis Group.

<sup>13</sup> Indian Penal Code, 1860, § 354, No. 45, Acts of Parliament, 1860 (India).

<sup>14</sup> Indian Penal Code, 1860, § 499, No. 45, Acts of Parliament, 1860 (India).

<sup>15</sup> Information Technology Act, 2000, § 66C, No. 21, Acts of Parliament, 2000 (India).

<sup>16</sup> Information Technology Act, 2000, § 66D, No. 21, Acts of Parliament, 2000 (India).

<sup>17</sup> Information Technology Act, 2000, § 66E, § 67, § 67E, No. 21, Acts of Parliament, 2000 (India).

<sup>18</sup> *Prakhar Sharma v. State of Madhya Pradesh*, MP High Court, MCRC No. 377-2018.

<sup>19</sup> *State of West Bengal v. Animesh Boxi*, GR No. 1587/17.



According to the Indian Penal Code, provisions such as Section 504 (Intentional insult with intent to provoke breach of the peace), Section 506 (Punishment for criminal intimidation), Section 509 (Word, gesture or act intended to insult the modesty of a woman), Section 354 (Assault or criminal force to woman with intent to outrage her modesty), Section 294 (Punishment for obscene acts or words in public) are to protect women from verbal abuses. Also, according to Section 3 of the Domestic Violence Act, any form of verbal abuse shall be given a wider interpretation which widens the ambit of the Section. In fact, verbal abuse need not occur in public place to attract punishment. However, as this is a non-cognizable offence, the court may or may not take cognizance and thus, proof or evidence plays a vital role in proving the case. Thus, there are many grounds that women can use to fight against Verbal Abuse in India.

### **ECONOMICAL ABUSE AS AN OFFENCE IN INDIA**

According to the Section 3 of the Domestic Violence Act 2005, economical abuse is the deprivation of all or any of the access to financial or economical resources, restraining a person to use or access any of the basic resources in the household, not giving access or kept in the dark of financial information and non-involvement in any of the financial and investment decisions. Thus, it is evident that financial abuse is a sub species of economical abuse.

Most of the economical abuse cases in India are only recognized when it's of very grave nature, dowry or maintenance related. Other forms of economical abuse which are subtle, despite having the same mental effect on the women, are yet to be included in this section.

Economic abuse under this Act should be interpreted in a broader sense which is not only inclusive of women's primary requirement, but also to achieve a women's complete economic independence. The fundamental rights guaranteed to the people of India in the Indian Constitution are of adequate amplitude to encompass all the dimensions of gender equality.<sup>20</sup> Denying financial and economical access and independence is a violence of women's right to equality guaranteed by the Constitution. Despite defining economical abuse in Section 3 of the Domestic Violence Act, a broad interpretation is necessary which cannot be interpreted from the given provision to make these economic right consistent with the constitution and other international treaty India is a party of.

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<sup>20</sup> Vishaka v. State of Rajasthan AIR 1997 SC 3011.

Thus, interpretation of economic abuse on the whole, inclusive of methodological financial dominance and control over the women that equates to the masculinity control accompanied by domestic violence, is a crime under the Act. Punishing the abuser on one hand and additionally providing the right awareness and adequate education about the issue of domestic violence and its impact on the other, will aid in the protection of women's rights and helps in tackling such abuses in the right way.

## **HOW EVIDENCE PLAYS A VITAL ROLE IN THE JUDGMENTS OF OBTRUSIVE ABUSES**

As discussed above, abuses such as emotional, verbal, technological, economical, emotional are being dealt with in different statutes in India. Despite the presence of many legislations for the protection of women it is primary for the judicial system to believe that the victim has undergone mental trauma. "Cruelty" for the purposes of constituting the offense doesn't have to be physical all the time, even mental harassment can amount to cruelty against a woman.<sup>21</sup> Continuous abuse or manhandling, termination of marital tie, studied neglect are some of the examples that may lead to mental cruelty<sup>22</sup>. In cases of mental cruelty, where evidence is not direct, court may require to instigate the mental trauma faced by the victim that are brought into light. Mental cruelty can consist of verbal abuse by any means i.e., abusive foul languages that causes constant disturbance to the mental peace of the victim.<sup>23</sup> Remedy cannot be denied for the abuse caused, just because there was no intent to cause harm.<sup>24</sup>

However, cruelty differs from case to case. In one case where it amounts to cruelty may not be the same in another. This is to be determined by analyzing the facts and logical circumstances of the case. Judges have the discretionary power to decide whether it amounts to cruelty or not.<sup>25</sup> "Simple insignificant irritations, quarrels between spouses, which occur in everyday life in married life, may also not constitute cruelty. Cruelty in married life can be of an unfounded variety, which can be subtle or brutal. It can be words, gestures or simple silence, violent or non-violent."<sup>26</sup>

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<sup>21</sup>Gananath Pattnaik v. State of Orissa Criminal Appeal No.1 of 1995.

<sup>22</sup> Sirajmohmedkhan Janmohamadkhan v. Haizunnisa Yasinkhan & Anr 1981 AIR 1972, 1982 SCR (1) 695.

<sup>23</sup> A. Jayachandra v. Aneel Kaur (2015) 2 SCC 22.

<sup>24</sup> Shobha Rani v. Madhukar Reddi 1988 AIR 121, 1988 SCR (1) 1010.

<sup>25</sup> V. Bhagat v. D. Bhagat 1996 IAD Delhi 699, 61 (1996) DLT 747, 1996 (36) DRJ 457, 1994 RLR 34.

<sup>26</sup> Samar Gosh v. Jaya Gosh (2007) 4 SCC 511.

Evidences presented by the victim play a very important part in handling mental harassment cases. Even though the victim faces mental abuses, they must be able to prove it in court to punish the abuser. To fill this gap, there must be strong legislations which are extensive to include all abuses so that the victim need not rely on evidence alone to prove the allegations on the abusers.

## **SUGGESTIONS**

- Individuals in powerful positions such as Lawyers, Judges, and law students should be educated about the emerging ideas with regards to social issues. (Racism, Gender Neutral Terms, etc.) In fact, recently in the Madras High Court Justice N Anand Venkatesh, said that he himself had to overcome his prejudices against the LGBTQ Community by openly stating he needed to get educated about the same. This mentality among people in authority, especially judicial decision makers would help in welcoming positive change in the society.
- Normalising therapy, counselling and acknowledging people's mental wellbeing should be the next step for a better and well-informed society.
- Researchers and Policy makers in the field of prevention and protection of women against abuses should be well aware of and educated about the intensity and psychological implications of such unrecognised abuses.
- A wide and exhaustive interpretation of statutes is to be made which requires amendments to the Domestic Violence Act and the Indian Penal Code giving importance to such unnoticed abuses in domestic spheres.
- Section 11 of the Domestic Violence Act, 2005 specifies that the Central and State governments should priorities both sensitisation and awareness training & campaign for the people to increase the publicity of the Act which should be put to use more effectively.
- As evidence plays a key role in judicial decisions, collecting proofs through audio or video recordings etc., would stand in court and would come in hand for the victims.
- Equipping protection officers for timely and apt services would help many women to step up.
- Improve the quality and expand the capacity of shelter homes to accommodate victims.
- Improving facilities of rehabilitation of victims for speedy recovery from the effects of abuses.

## **CONCLUSIONS**

From the findings, regarding identification of abuses, it can be inferred that majority of the samples were not able to identify psychological, verbal, emotional and technological abuses whereas, financial and economical abuses were identified. Also, more than half of the individuals were unaware of the available counselling services and did not seek therapy as an option. A large part of the population stated that they wouldn't take any action if they were in any abusive situation and let it go for the sake of the family. Legally, abuses like verbal, technological, emotional are punishable under the Domestic Violence Act, the Indian Penal Code etc. However, abuses such as economical and financial need an exhaustive interpretation to help women in the domestic set-up. Moreover, public awareness of all the legal measures and remedies available should be published to encourage women to come forward and act against the abusers.