

Marital Cruelty In India: Reconceptualising Gender Equality And Social Justice Within Marriage

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ABSTRACT:

Marital cruelty in India has traditionally been approached through the language of matrimonial disputes, domestic violence, dowry harassment and criminal liability. Such an approach, although legally necessary, does not fully capture the broader implications of cruelty for gender equality and social justice. Marriage is simultaneously a social relationship, a legal institution and a site in which power, autonomy, economic dependence and gender expectations may operate. Consequently, cruelty within marriage is not merely a private dispute between spouses; persistent violence, humiliation, economic deprivation, sexual abuse, coercive control and dowry-related harassment may affect a woman's substantive equality, dignity and ability to participate equally in family and social life.

This paper examines marital cruelty in India through the interconnected perspectives of gender equality and social justice. It analyses the constitutional foundations of equality and dignity under Articles 14, 15 and 21, the Protection of Women from Domestic Violence Act, 2005 the Bharatiya Nyaya Sanhita, 2023, and matrimonial remedies under the Hindu Marriage Act, 1955. It further examines the Supreme Court's evolving jurisprudence on mental cruelty, domestic violence, dowry-related cruelty, individual criminal responsibility and matrimonial autonomy. The paper also considers the significance of socio-economic status, education, rural-urban location and economic dependence in determining women's ability to resist abuse and access legal remedies.

Recent developments, including the Supreme Court's 2025 decision in Janshruti (People's Voice) vs. Union of India concerning the constitutional challenge to the cruelty provision and its 2025 decision in Shaurabh Kumar Tripathi vs. Vidhi Rawal concerning proceedings under the Domestic Violence Act, demonstrate the continuing tension between protection, procedural fairness and access to justice. The paper argues that substantive gender equality within marriage requires more than formal legal protection. It requires institutions capable of recognising diverse forms of cruelty, ensuring meaningful access to remedies, and responding to women as rights-bearing individuals rather than merely as participants in a matrimonial relationship.

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Introduction

Marriage occupies a distinctive position in Indian society. It is a legally recognised relationship, but its meaning extends far beyond the legal contract. It may involve emotional companionship, family obligations, economic interdependence, child-rearing and social identity. At the same time, the institution of marriage may reproduce unequal expectations concerning women's behaviour, sexuality, domestic responsibilities and economic dependence. Where these inequalities become instruments of domination, humiliation or violence, the consequences extend beyond the immediate matrimonial relationship.

Marital cruelty should therefore not be viewed exclusively as a private disagreement between husband and wife. The persistence of physical violence, psychological abuse, sexual violence, economic deprivation, dowry-related harassment and coercive behaviour raises questions of equality, dignity and access to justice. The National Family Health Survey-5 reported that approximately 29% of ever-married women aged 18-49 years had experienced physical or sexual spousal violence, with the reported prevalence being higher in rural areas than urban areas.¹ Although the NFHS category of spousal violence cannot be equated with the legal concept of marital cruelty, the data demonstrates the continuing social significance of violence within intimate relationships.

The connection between marital cruelty and gender equality is particularly important because formal equality does not necessarily produce equality within the household. A woman may possess the same legal personality and constitutional rights as a man while simultaneously experiencing economic dependence, restricted mobility, reproductive

pressure or violence within the family. Substantive equality requires attention to these conditions. The issue also has an important social-justice dimension. A legal remedy has limited value if the person experiencing abuse cannot access it because of financial dependence, social stigma, lack of information, fear of retaliation, concern for children or institutional barriers. The question, therefore, is not simply whether Indian law prohibits cruelty, but whether the legal and institutional framework enables women to exercise their rights in practice.

2. Understanding Marital Cruelty Beyond Physical Violence

The legal understanding of cruelty has progressively moved beyond physical injury. Under Sec. 13(1)(ia) of the Hindu Marriage Act, 1955 cruelty constitutes a ground for divorce. Indian matrimonial jurisprudence has consequently developed a contextual understanding of mental cruelty.

In *N.G. Dastane vs. S. Dastane*, the Supreme Court recognised that cruelty in matrimonial law is not confined to physical violence and that the court must examine the effect of the conduct within the particular matrimonial relationship.² The principle was developed further in *V. Bhagat vs. D. Bhagat*, where mental cruelty was examined in terms of conduct causing such mental pain and suffering that the parties could not reasonably be expected to live together.³

The most frequently cited exposition remains *Samar Ghosh vs. Jaya Ghosh*. The Supreme Court observed that there could be no exhaustive definition or rigid formula for mental cruelty and provided illustrative circumstances which could assist courts in assessing whether conduct had crossed the threshold of legal cruelty.⁴ The

¹Ministry of Health and Family Welfare, Government of India. (2023). Health and family welfare statistics in India 2023. Section C.2.15.

²*N.G. Dastane vs. S. Dastane* (1975) 2 SCC 326

³*V. Bhagat vs. D. Bhagat* (1994) 1 SCC 337

⁴*Samar Ghosh vs. Jaya Ghosh* (2007) 4 SCC 511

judgment emphasised that the assessment must consider the totality of circumstances and the cumulative effect of conduct rather than isolated incidents. This approach is significant for gender justice because much abuse within marriage does not necessarily result in visible physical injury. Persistent humiliation, repeated accusations, threats, isolation, controlling behaviour and economic deprivation may gradually diminish a woman's autonomy and sense of security. A legal framework that recognises only visible physical injury would therefore fail to capture important forms of lived inequality.

3. The Statutory Architecture: Multiple Laws, Different Purposes

Indian law does not contain one single legal definition governing every manifestation of marital cruelty. Instead, several legal frameworks operate simultaneously. The Protection of Women from Domestic Violence Act, 2005 adopts an intentionally broad protective approach. Sec. 3 recognises physical, sexual, verbal and emotional, and economic abuse and also covers conduct connected with unlawful demands for dowry or property.⁵ The Act further provides for protection orders, residence orders, monetary reliefs, custody orders and compensation orders under sections 18-22.⁶

The Domestic Violence Act is therefore particularly important from a social-justice perspective because its objective is not confined to punishment. It seeks to provide practical protection and remedial relief to women experiencing violence within domestic relationships.

Criminal law operates differently. Sec. 85 and 86 of the Bharatiya Nyaya Sanhita, 2023 provide for punishment of a husband or relative of a husband who subjects a woman to cruelty and define cruelty through two principal categories: wilful conduct likely to drive the woman to suicide or cause grave injury or danger to life, limb or health,

including mental health; and harassment connected with unlawful demands for property or valuable security.⁷

The statutory framework thus reveals an important distinction. Domestic violence, matrimonial cruelty and criminal cruelty overlap, but they are not legally identical concepts. Conduct may constitute domestic violence and justify civil or protective relief without necessarily satisfying the ingredients of every criminal offence. Similarly, conduct may amount to matrimonial cruelty under Sec. 13(1)(ia) of the Hindu Marriage Act without automatically constituting an offence under Sec. 85 of the BNS. This distinction is important for a rights-based understanding of the law. Gender justice does not require every form of matrimonial suffering to be criminalised. It requires that the legal system provide an appropriate remedy proportionate to the nature of the harm.

4. Gender Equality and the Constitutional Dimension

The constitutional relationship between marital cruelty and gender equality begins with Articles 14 and 15. Article 14 guarantees equality before law and equal protection of laws, while Article 15 prohibits discrimination on specified grounds, including sex. Article 15(3), however, expressly permits the State to make special provisions for women and children.⁸ Such protective legislation should not be understood as a departure from equality. Rather, it reflects the constitutional recognition that identical treatment may not address historically embedded disadvantage. A law specifically protecting women from domestic violence may therefore constitute an instrument of substantive equality.

Article 21 adds another dimension. The Supreme Court has interpreted the right to life broadly to include dignity, bodily integrity, privacy and

⁵The Protection of Women from Domestic Violence Act, 2005 Sec. 3 and Explanation I

⁶*Id.*, Sec. 18-22

⁷The Bharatiya Nyaya Sanhita, 2023, Sec. 85-86

⁸Constitution of India, Art. 14 and 15(1)(3)

decisional autonomy.⁹ In *Justice K.S. Puttaswamy (Retd.) vs. Union of India*, privacy was recognised as a constitutionally protected right closely connected with autonomy and dignity.¹⁰ These principles are directly relevant to intimate relationships because marriage does not extinguish the constitutional personality of either spouse.

5. Marital Cruelty as a Barrier to Substantive Equality

The concept of equality within marriage must be distinguished from formal equality. A woman may have a legal right to property, employment, education, bodily integrity and freedom of choice, but those rights may become practically inaccessible where she is economically dependent or subjected to sustained coercive behaviour. Economic abuse illustrates this problem particularly well. Sec. 3 of the Domestic Violence Act expressly includes deprivation of financial resources, household necessities, maintenance, *stridhan*, property and access to resources within the concept of economic abuse.¹¹ Economic control may therefore operate as a mechanism through which other forms of abuse are sustained.

The relationship between economic dependence and gender inequality is especially important in rural and low-income households. A woman who lacks independent income or access to property may face substantially greater practical difficulty in leaving an abusive relationship. Consequently, social justice requires consideration not only of the abusive act but also of the conditions that limit the victim's ability to respond. Education similarly has a complex relationship with marital violence. Higher education may improve awareness of rights and access to employment, but education alone does not eliminate gender-

based violence. Social norms, economic dependence, family structure and location continue to influence women's vulnerability and capacity to seek help.¹² This demonstrates why marital cruelty should be examined through an intersectional lens. Gender is a central factor, but it does not operate in isolation.

6. Inclusion and the Diversity of Women's Experiences

The category "married women" does not represent a socially homogeneous group. Women's experiences differ according to economic status, age, education, rural or urban residence, employment, disability, family structure and access to social support. For example, an economically independent urban woman and a financially dependent rural woman may experience similar conduct but possess very different capacities to respond. One may have access to employment, independent accommodation, digital communication and legal assistance; the other may depend upon the very family members against whom a complaint would have to be made.

The Domestic Violence Act's broad understanding of domestic relationship is significant in this context. The Act extends beyond the traditional husband-wife relationship to relationships in which persons have lived together in a shared household and includes relationships by marriage and relationships in the nature of marriage.¹³ This reflects an attempt to recognise the diversity of domestic arrangements in contemporary India.

Inclusion also requires sensitivity towards women who may be reluctant to approach criminal justice institutions. A legal system that merely creates

⁹Maneka Gandhi vs. Union of India (1978) 1 SCC 248; Francis Coralie Mullin vs. Administrator, Union Territory of Delhi (1981) 1 SCC 608

¹⁰Justice K.S. Puttaswamy (Retd.) vs. Union of India (2017) 10 SCC 1

¹¹The Protection of Women from Domestic Violence Act, 2005 Sec. 3, Explanation I(iv).

¹²International Institute for Population Sciences (IIPS) & ICF. (2021). National Family Health Survey (NFHS-5), 2019–21: India. Ministry of Health and Family Welfare, Government of India

¹³The Protection of Women from Domestic Violence Act, 2005 Sec. 2(f).

remedies without making them accessible cannot fully realise social justice.

7. Sexual Autonomy, Marital Violence and the Continuing Legal Debate

Sexual cruelty represents one of the most difficult areas in the legal regulation of marriage. The Domestic Violence Act expressly recognises sexual abuse as a form of domestic violence where conduct of a sexual nature abuses, humiliates, degrades or otherwise violates the dignity of a woman.¹⁴ However, Indian criminal law continues to distinguish between sexual violence within marriage and rape as ordinarily defined under the Bharatiya Nyaya Sanhita. The statutory marital exception concerning a wife who is not under eighteen remains a significant limitation within the criminal framework.¹⁵ The Supreme Court's decision in *Independent Thought vs. Union of India* had earlier read down the corresponding exception under the IPC in relation to wives below eighteen years of age.¹⁶

The continuing debate illustrates a deeper conflict between the traditional conception of marriage and the constitutional idea of individual autonomy. From the perspective of gender equality, marriage cannot logically be treated as extinguishing bodily autonomy. Yet the precise contours of criminal liability within marriage remain a matter of legislative and constitutional debate.

8. Dowry, Cruelty and Social Justice

Dowry-related cruelty represents perhaps the clearest example of the interaction between gender inequality and social structure. It transforms marriage from a relationship of partnership into a site where economic expectations can determine a woman's status and security. Sec. 85-86 of the BNS specifically recognise harassment connected with unlawful

demands for property or valuable security.¹⁷ Dowry death is separately addressed under Sec. 80 of the BNS, subject to the statutory conditions including death in specified circumstances within seven years of marriage and cruelty or harassment "soon before" death in connection with dowry demands.¹⁸

The issue was again highlighted by the Supreme Court in *Janshruti (People's Voice) vs. Union of India* in April 2025. The Court declined to entertain a constitutional challenge seeking, among other reliefs, intervention concerning the cruelty provision, observing that the legislative purpose behind the provision was connected with entrenched exploitation of married women and that alleged misuse could not, by itself, justify invalidating the protective framework.¹⁹ The Court nevertheless emphasised that individual cases must be assessed on their facts. The significance of the decision for social justice lies in its recognition of the continuing structural rationale for legal protection while simultaneously preserving case-specific adjudication.

9. Recent Judicial Developments

Recent Supreme Court decisions demonstrate that the law concerning marital cruelty continues to evolve. In *Shaurabh Kumar Tripathi vs. Vidhi Rawal* (2025), the Supreme Court examined the nature of proceedings under Sec. 12 of the Domestic Violence Act and the power of the High Court to exercise inherent jurisdiction in relation to such proceedings.²⁰ The judgment provides an important clarification that an application under Sec. 12 of the Domestic Violence Act cannot simply be equated with a conventional criminal complaint. It also examined the interaction between Sec. 12, 18-23,

¹⁴Id., Sec. 3, Explanation I(ii).

¹⁵The Bharatiya Nyaya Sanhita, 2023, Sec. 63, Exception 2

¹⁶*Independent Thought vs. Union of India* (2017) 10 SCC 800

¹⁷The Bharatiya Nyaya Sanhita, 2023, Sec. 86(b).

¹⁸Id., Sec. 80; The Bharatiya Sakshya Adhiniyam, 2023, Sec. 118

¹⁹*Janshruti (People's Voice) vs. Union of India*, 2025 INSC 536, order dt. 15 April 2025

²⁰*Shaurabh Kumar Tripathi vs. Vidhi Rawal*, 2025 INSC 734, judgment dt. 19 May 2025

26, 27 and 28 of the Act.²¹ This is important for access to justice because procedural characterisation can directly affect the manner in which victims obtain protective and monetary relief.

In 2026, the Supreme Court continued to engage with the evolving concept of mental cruelty. In *Sonal Talpada vs. Veerbhan Singh*, the Court considered persistent denial of conjugal relations, prolonged separation and the cumulative conduct of spouses in the context of Sec. 13(1)(ia) of the Hindu Marriage Act.²² The judgment reaffirmed the importance of examining matrimonial conduct in its overall context rather than relying upon an isolated incident. A separate 2026 Supreme Court judgment likewise referred to *Samar Ghosh* and reiterated that cruelty under Sec. 13 is assessed retrospectively through the totality and cumulative effect of prior conduct.²³ These decisions demonstrate that the jurisprudence of cruelty remains fact-sensitive and responsive to changing understandings of marital relationships.

10. Towards a Gender-Just Understanding of Marriage

The relationship between marriage and gender equality requires a shift from viewing the family as a purely private sphere to recognising marriage as a relationship in which constitutional values continue to operate. This does not mean that the State should regulate every disagreement between spouses. Nor does it mean that all marital conflict should be converted into criminal proceedings. Rather, the law should intervene where conduct crosses recognised legal thresholds of violence, abuse, coercion, harassment or serious cruelty.

Three principles may guide such an approach. First, dignity should remain central. Marriage should not diminish an individual's constitutional personality or bodily and mental integrity. Secondly, substantive equality should

accompany formal equality. A legal remedy must be meaningful for women who lack financial independence, social support or knowledge of the law. Thirdly, institutional responses should be sensitive to diversity. Women from rural areas, economically weaker households and socially vulnerable backgrounds may require different forms of assistance even though the underlying legal right is the same.

11. Conclusion

Marital cruelty in India is simultaneously a legal, social and constitutional problem. It is a legal problem because Indian law recognises several forms of cruelty and provides matrimonial, civil and criminal remedies. It is a social problem because violence and coercion within marriage are connected with wider patterns of gender inequality, economic dependence and social expectations. It is a constitutional problem because persistent abuse may impair equality, dignity, autonomy and meaningful participation in social life.

The relationship between marital cruelty and the conference theme of gender equality, inclusion and social justice is therefore direct. Gender equality within marriage cannot be achieved merely by declaring men and women formally equal; it requires conditions in which women can actually exercise autonomy, security and legal rights. Inclusion similarly requires recognition that women experience marital cruelty under different social and economic conditions. Social justice requires that legal remedies be practically accessible and institutionally responsive.

Indian law has progressively expanded the legal vocabulary through which cruelty can be recognised. The Domestic Violence Act provides a broad protective framework; matrimonial law recognises mental cruelty; and the BNS retains specific criminal liability for cruelty by a husband

²¹Id.; see particularly the discussion concerning Sec. 12, 18-23, 26-28 of the Protection of Women from Domestic Violence Act, 2005

²²*Sonal Talpada vs. Veerbhan Singh*, 2026 INSC 620, judgment dt. 2 June 2026

²³*Shephali Chakraborty v. State of West Bengal*, 2026 INSC 621 (Supreme Court of India, June 3, 2026), discussing *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511

or his relatives. Constitutional jurisprudence supplies the deeper normative foundation of equality and dignity. Yet the existence of law does not by itself eliminate the conditions that produce or sustain cruelty. The continuing prevalence of spousal violence, the persistence of dowry-related practices, difficulties in reporting abuse and unequal access to economic and institutional resources demonstrate that legal protection must be accompanied by social and institutional measures. The future development of gender justice in matrimonial law should therefore focus not only on creating new offences but also on improving implementation of existing protections, strengthening access to legal aid and support services, ensuring sensitive judicial and

police responses, recognising economic and psychological forms of abuse, and generating reliable data concerning women's experiences.

Ultimately, a gender-just conception of marriage is one in which marriage does not become a justification for diminished autonomy. The constitutional promise of equality must enter the household as meaningfully as it operates outside it. Protecting women from marital cruelty is consequently not merely a matter of protecting individual victims; it is part of the larger project of building a legal and social order in which marriage remains compatible with dignity, equality, inclusion and justice.

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