



## INTENTIONAL TORT AGAINST A SPOUSE

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### ABSTRACT

*A tort is a civil wrong for which the remedy is damages. An intentional tort refers to a wrongful act done with the intention to cause harm. When such intentional acts occur between spouses, they are known as marital torts. This paper focuses on intentional torts committed by one spouse against the other, where the element of intent is essential. It explains how deliberate actions such as assault, battery, intentional infliction of emotional distress, false imprisonment, and invasion of privacy can cause serious physical and mental harm within a marriage. It also touches upon adultery-related claims and their limited recognition under tort law. The paper further examines how the law allows spouses to seek remedies despite the traditional concept of spousal immunity, which has now been reduced in many jurisdictions. It discusses the legal remedies available, including damages, injunctions, and protective orders. The paper concludes that intentional torts within marriage are serious violations of personal rights and dignity, and there is a need for effective legal protection and greater awareness to address such harm within marital relationships.*

**Keywords:** Intentional Tort, Marital Tort, Spousal Liability, Assault, Battery.

### INTRODUCTION

Tort may be understood as an act or omission that gives rise to injury or harm to another, thereby amounting to a civil wrong for which the court imposes a liability.<sup>1</sup> Tort law<sup>2</sup> defines what constitutes wrongful conduct in a particular situation and dictates how tortfeasors legally compensate for their wrongful conduct. It extends to personal relationships, such as that

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<sup>1</sup> Legal Information Institute, 'Tort' (Cornell Law School) <https://www.law.cornell.edu/wex/tort> accessed 18 March 2026.

<sup>2</sup> Basil S Markesinis, 'Tort', *Encyclopaedia Britannica* (22 August 2023) <https://www.britannica.com/topic/tort> accessed 18 March 2026.

between two spouses, as well as that of corporate entities. In the past and to a certain extent, even at present, immunities exist in the common law against tort litigation. This paper examines a claim that is framed under the tort law rather than the family law. While such a claim may align with the objectives of tort law, it is important to recognise that the dispute is not between strangers, but between spouses who once shared a harmonious relationship and are now facing marital difficulties.

## **INTENTIONAL TORT**

An intentional tort<sup>3</sup> refers to a category of civil wrongs or injuries caused by an individual's deliberate actions. In such cases, it must be established that the defendant intended to commit the act that causes harm or injury. The defendant must have engaged in deliberate conduct that directly resulted in harm or injury, and there must be a clear causal connection between the defendant's intentional act and the injury suffered by the plaintiff. Depending on the nature of the tort, either general intent or specific intent must be established.<sup>4</sup> A few examples of intentional tort are assault, battery, false imprisonment, defamation, and intentional infliction of emotional distress. Further in *Garratt v. Dailey*, the court held that a young boy who pulled a chair out from under an elderly woman was liable for battery, even though he did not intend to cause harm, as the act itself was intentional and resulted in injury.<sup>5</sup> Intentional torts against a spouse refer to wrongful acts committed by one spouse against another with the intent to cause harm or injury. Intentional torts committed against a spouse can be referred to as marital torts.

## **MARITAL TORT**

A marital relationship<sup>6</sup> refers to the legal, emotional, and social bond between spouses who are married to each other. It encompasses the interactions, commitments, and shared life between a husband and wife, based on their legal marriage contract and the mutual understanding of their roles and responsibilities. A spouse<sup>7</sup> refers to a person's legally recognised partner in

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<sup>3</sup> F A Trindade, 'Intentional Torts: Some Thoughts on Assault and Battery' (1982) 2(2) *Oxford Journal of Legal Studies* 211 <http://www.jstor.org/stable/764278> accessed 18 March 2026.

<sup>4</sup> Legal Information Institute, 'Intentional Tort', *Cornell Law School* [https://www.law.cornell.edu/wex/intentional\\_tort](https://www.law.cornell.edu/wex/intentional_tort) accessed 18 March 2026.

<sup>5</sup> *Garratt v Dailey* 49 Wn 2d 499 (Wash 1956).

<sup>6</sup> The Editors of Encyclopaedia Britannica, 'Marriage', *Encyclopaedia Britannica* (9 September 2023) <https://www.britannica.com/topic/marriage> accessed 18 March 2026.

<sup>7</sup> 'Spouse', *Cambridge Dictionary* <https://dictionary.cambridge.org/dictionary/english/spouse> accessed 18 March 2026.

marriage. It is a term used to describe the individual to whom someone is married. The concept of a spouse varies across cultures and legal systems, but generally, a spouse is a person who is legally married to another person, as defined by the laws of a particular jurisdiction.

A marital relationship is established through a legal marriage recognised by the government or relevant authorities. There needs to be a presence of emotional connection and a bond between the spouses, and there needs to be love, trust, companionship and support through the relationship. The spouses commit to each other's well-being and live together as a family unit, sharing a home and managing household responsibilities.

Talking from a legal perspective, a marital relationship creates a certain framework of rights, duties, and financial obligations between the spouses. While each marriage is shaped by the couple's individual values, beliefs, and shared goals, the law continues to regulate certain aspects of their conduct. Within this framework, marital torts may arise when one spouse causes harm to the other, and this can occur in various forms, including physical, emotional, or financial harm inflicted by one spouse upon the other. Such acts<sup>8</sup> not only have serious legal liabilities but also have significant consequences for the injured spouse, and can undermine the stability and well-being of the marital relationship.

### **INTENTIONAL TORT AGAINST A SPOUSE**

**Assault:** Assault<sup>9</sup> under tort law refers to the intentional act of causing apprehension or fear of immediate harmful or offensive physical contact in another person. Or the “act done by one person which causes, and is intended to cause, to another an apprehension of an immediate and harmful or offensive touching or contact with his person<sup>10</sup>” is an assault. In *Lewis v Hoover*,<sup>11</sup> the court defined assault as an attempt or offer, accompanied by violence, to cause physical harm to another, for instance, raising a cane or fist in a threatening manner, or striking at a person with a stick, fist, or other weapon within a striking distance, even if the blow does not actually land.<sup>12</sup> It is a legal term that encompasses both the threat of physical harm and the

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<sup>8</sup> R G Spector, ‘Marital Torts: The Current Legal Landscape’ (1999) 33(3) *Family Law Quarterly* 745 <http://www.jstor.org/stable/25740238> accessed 18 March 2026.

<sup>9</sup> William E McCurdy, ‘Torts Between Persons in Domestic Relation’ (1929) 43 *Harvard Law Review* 1030.

<sup>10</sup> W D Rollison, ‘Torts: Assault, Battery’ (1941) 17(1) *Notre Dame Law Review* 1, 11.

<sup>11</sup> *Lewis v Hoover* (1834) 3 Blackf 407.

<sup>12</sup> W D Rollison, ‘Torts: Assault, Battery’ (1941) 17(1) *Notre Dame Law Review* 1, 11.

reasonable fear experienced by the victim. When we talk about assault on a spouse, it is an intentional act where one of the spouses causes immediate harm or offensive physical contact.

Earlier in common law, a spouse could not maintain an action against the other, even for serious intentional torts such as assault or battery.<sup>13</sup> This restriction flowed from the doctrine of Unity, under which the husband and wife were regarded as one legal person, and that person was the husband.<sup>14</sup> Consequently, an action for assault between spouses was legally impossible, as it would amount to a person suing himself.

This position was clearly reflected in *Philips v. Barnet*,<sup>15</sup> where a divorced wife brought an action against her former husband for assault and battery committed during marriage. The court denied the claim, not merely on procedural grounds, but on the broader principle that spouses could not sue each other. Similarly, in *Abbot v. Abbot*,<sup>16</sup> the court justified the denial of such actions on the ground of public policy, observing that allowing assault claims would open the door to litigation involving other torts such as slander and libel, thereby exposing private marital disputes to public scrutiny.

The same reasoning was adopted by the United States Supreme Court in *Thompson v. Thompson*<sup>17</sup> where it was held that a wife could not sue her husband for assault and battery. The court emphasised that permitting such actions would lead to a flood of intra-spousal accusations, including claims for assault, slander, and libel, thereby undermining marital harmony.

Under this doctrine of interspousal immunity, no cause of action arose between spouses for intentional torts, including assault and battery.<sup>18</sup> This immunity extended not only to intentional acts of violence but also to other torts such as false imprisonment, malicious prosecution, libel, and slander.<sup>19</sup> The rule was applied strictly, even in extreme cases, such as where a husband deliberately infected his wife with a venereal disease.<sup>20</sup>

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<sup>13</sup> *Jewell v Porter & Rolfe* 31 NH 34 (1855);

<sup>14</sup> *Firebrass v Pennant* (1764) 2 Wils 254;

<sup>15</sup> *Phillips v Barnet* (1876) 1 QBD 436;

<sup>16</sup> *Abbot v Abbot* (1877) 67 Me 304;

<sup>17</sup> *Thompson v Thompson* 218 US 611 (1910).

<sup>18</sup> *Strom v Strom* 98 Minn 427 (1906);

<sup>19</sup> *Rogers v Rogers* 265 Mo 200 (1915).

<sup>20</sup> *Webster v Snyder* 103 Fla 1131 (1932);

Importantly, this bar applied irrespective of whether the tort, including assault, occurred before or during the marriage, and in many instances even after divorce.<sup>21</sup> Thus, even clear acts of physical violence could not give rise to civil liability between spouses under common law.

However, it is noteworthy that while civil remedies for assault were barred, limited protection was available under criminal law, which did not fully recognise the unity doctrine.<sup>22</sup> Additionally, acts of assault could still serve as relevant evidence in matrimonial proceedings, particularly in supporting divorce claims.<sup>23</sup>

**Abuse:** Physical abuse falls<sup>24</sup> within the scope of assault as it involves the intentional use of physical force to cause harm, pain, or injury to another person. It is an intentional tort where one spouse uses physical force to harm the other spouse. Physical abuse specifically refers to acts of physical violence or harm inflicted upon another person. Physical abuse can take various forms, including hitting, slapping, punching, kicking, choking, pushing, pulling hair, and using weapons to harm the spouses. All of these acts can cause severe injuries such as broken bones, cuts or internal injuries. In a marital relationship, the abusive spouse seeks to assert dominance and instil fear to have control of the victim. All of these abusive acts can have a psychological impact on the victimised spouse. It can cause post- traumatic stress disorder, fear, depression, and anxiety.

Victims of physical abuse need to prioritise their safety and seek legal remedies, as there are domestic violence laws, protection orders and criminal penalties to protect the victimised spouse. The victimised spouse tends to stay silent and not report the abuse they are going through due to various constraints. Legal systems often recognise and provide legal protections against physical abuse and assault, with specific laws and provisions in place to address and penalise such behaviour. There is a need to spread awareness of the protection a victimised spouse can avail if they are being physically abused, use the domestic violence helpline and raise a complaint for their own safety.

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<sup>21</sup> *Clark v Clark* 11 F2d 871 (2d Cir 1926);

<sup>22</sup> *Ewald v Lane* 104 F2d 222 (DC Cir 1939);

<sup>23</sup> *Bandfield v Bandfield* 117 Mich 80 (1898);

<sup>24</sup> Zlatka Rakovec-Felser, 'Domestic Violence and Abuse in Intimate Relationships from Public Health Perspective' (2014) 2(3) *Health Psychology Research* 1821 <https://doi.org/10.4081/hpr.2014.1821> accessed 18 March 2026.

Another form of abuse is Social isolation<sup>25</sup> occurs when one spouse isolates the other from friends, family, or support networks. It may involve controlling the social activities, restricting communication, or preventing the victimised spouse from maintaining external relationships. The isolated spouse has psychological trauma and doesn't get to exercise basic human rights, and has constraints in everything they do.

Financial or economic abuse<sup>26</sup> refers to controlling or manipulating the finances of a spouse to exert power and control. This may involve restricting access to money, denying financial resources, or coercing the victimised spouse into certain financial decisions or actions. Dowry is a form of financial assault a spouse inflicts on the other spouse. Financial abuse through the demand of dowry can have severe consequences for the bride and her family. It may lead to economic hardship, financial dependence, and can perpetuate a power imbalance within the marital relationship. It can also contribute to emotional distress, marital conflict, and in extreme cases, domestic violence or even dowry-related deaths.

**Marital Rape and other Sexual Offences:** In general, inappropriate behaviour such as assault or criminal force to a woman with intent to outrage her modesty (shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both),<sup>27</sup> sexual harassment, assault or use of criminal force to a woman with the intent to disrobe, voyeurism, stalking, word or gesture or act intended to insult the modesty of a woman, dowry death, cruelty and so on, are punishable under Bharatiya Nyaya Sanhita. Sections 74 to 87 deal with offences against women, married and unmarried alike.

Further, marital rape is the act of non-consensual sexual intercourse or sexual acts committed by one spouse against another within the context of a marital relationship. The definition of rape here remains the same, i.e., sexual intercourse or penetration, etc., when there is a lack of consent.<sup>28</sup> It involves the violation of a person's sexual autonomy and bodily integrity by their spouse, and the lack of consent.

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<sup>25</sup> Susanne Y P Choi and others, 'Social Isolation and Spousal Violence: Comparing Female Marriage Migrants With Local Women' (2012) 74(3) *Journal of Marriage and Family* 444 <http://www.jstor.org/stable/41507284> accessed 18 March 2026.

<sup>26</sup> Amy Farmer and Jill Tiefenthaler, 'An Economic Analysis of Domestic Violence' (1997) 55(3) *Review of Social Economy* 337.

<sup>27</sup> *Bharatiya Nyaya Sanhita* 2023, s 74.

<sup>28</sup> *Bharatiya Nyaya Sanhita* 2023, s 63.

Being in a marriage does not automatically imply consent in sexual activity; each spouse retains the right to autonomy over their own body and has the right to refuse or withdraw consent to sexual activity at any time, including within the confines of a marital relationship. Marital rape is a complex and sensitive issue, and the Supreme Court of India has not given legal recognition or criminalisation of marital rape. It is still undergoing debate and discussion.

In India, section 63 of the Bharatiya Nyaya Sanhita defines rape as a criminal offence, but it includes an exception stating that sexual intercourse by a husband with his wife, who is not below the age of 18 (replaced 15 to 18), is not considered rape.<sup>29</sup> This exception has drawn criticism from activists and advocacy groups who argue that it perpetuates a legal loophole and fails to provide adequate protection to married women. The Supreme Court has to look into these loopholes and address these issues.

**Battery:** Battery<sup>30</sup> against a spouse in tort law refers to the intentional and unconsented physical contact or harmful touching<sup>31</sup> of a spouse by the other spouse, resulting in physical harm or injury. While the marital relationship can have legal implications and affect the way such cases are approached, the fundamental elements of battery remain the same. The fundamental elements are:

**Intent:** Where a battery requires the intentional act of physically touching or making physical contact by one spouse on the other, without consent. Consent is a requirement to make any physical contact, even if they are married to the perpetrator.<sup>32</sup> While making physical contact, if the spouse intentionally harms the other spouse by hitting, punching, slapping, or using any other intentional action. If a spouse who has been a victim of battery by their spouse can pursue legal remedies in civil court. The types of batteries help us determine the extent of the injuries inflicted by the abusive spouse:

Simple battery refers to the intentional and unlawful physical contact that results in harm or offensive touching and involves the use of force or physical violence without causing severe injury.

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<sup>29</sup> Ibid.

<sup>30</sup> W Page Keeton and others, *Prosser and Keeton on the Law of Torts* (5th edn, West Publishing 1984) 39.

<sup>31</sup> W D Rollison, 'Torts: Assault, Battery' (1941) 17(1) *Notre Dame Law Review* 1, 3.

<sup>32</sup> Ibid.

Aggravated battery involves the intentional and unlawful physical contact that results in serious injury or harm to the victim. It typically includes the use of a weapon or involves actions that pose a significant risk of harm.

**Sexual Battery:** Sexual battery, also known as sexual assault, refers to the non-consensual and intentional touching of another person's intimate body parts, such as unwanted groping, fondling, or forced sexual intercourse, without the victim's consent.

Domestic battery specifically involves battery committed within a domestic or familial relationship. It occurs when one member of the household inflicts unlawful physical contact upon another member, such as a spouse, partner, or family member.

When a person intentionally uses a deadly weapon, such as a firearm or knife, to cause physical harm or injury to another person.

Depending on the extent of the injuries, the victim can file for damages and compensation under tort law for the harm suffered, including damages for medical expenses, pain and suffering, and other losses.

**Infliction of emotional distress:** IED,<sup>33</sup> or intentional infliction of emotional distress<sup>34</sup> is a tort against a spouse under certain circumstances. If one spouse engages in extreme and outrageous conduct that causes severe emotional distress to the other spouse, then the affected spouse may be able to bring a claim for intentional infliction of emotional distress against their partner.

The conduct must be extreme and outrageous, meaning that it goes beyond what is considered reasonable and acceptable behaviour in a marriage. The emotional distress suffered by the affected spouse must also be severe, such that it exceeds the level of emotional stress that is expected in a normal marital relationship. Examples of behaviour include physical violence, threats of violence, constant verbal abuse or humiliation, stalking, and harassment. These behaviours may cause severe emotional distress, such as anxiety, depression, and post-traumatic stress disorder<sup>35</sup> (PTSD). The affected spouse must be able to provide sufficient

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<sup>33</sup>Fernanda G Nicola, 'Intimate Liability: Emotional Harm, Family Law, and Stereotyped Narratives in Interspousal Torts' (2012) 19 *William & Mary Journal of Women and the Law* 445.

<sup>34</sup>Ira Mark Ellman and Stephen D Sugarman, 'Spousal Emotional Abuse as a Tort' (1996) 55 *Maryland Law Review* 1268.

<sup>35</sup> Sean Perrin and others, 'Assessing the Effects of Violence on Women in Battering Relationships with the Keane MMPI-PTSD Scale' (1996) 9 *Journal of Traumatic Stress* 805.

evidence to prove that their partner's behaviour was extreme and outrageous, and that it caused them severe emotional distress.

The affected spouse has to prove in the court of law that the conduct was intentional or reckless, and that their partner knew or should have known that their behaviour would cause severe emotional distress.

**Criminal conversion or Adultery:** Adultery<sup>36</sup> is the act of engaging in a consensual sexual relationship outside of marriage is a complex issue with both social and legal implications. From a legal standpoint, adultery is primarily addressed within the framework of family and personal laws, focusing on the consequences and remedies available to the aggrieved spouse. Under tort law<sup>37</sup> the concept of adultery raises questions about the potential civil remedies available to the aggrieved spouse for the harm caused by the adulterous actions.

However, it is important to note that the legal recognition of adultery as a standalone tort varies across jurisdictions. In some jurisdictions, there may be specific torts like "alienation of affection" that allow the aggrieved spouse to bring a claim against a third party who contributed to the breakdown of the marital relationship through their involvement in the adulterous affair. Here, the aggrieved spouse does not have direct recourse to a tort claim for adultery; they can explore civil remedies under tort law for related harms, such as intentional infliction of emotional distress or defamation if applicable.

**False Imprisonment:** False imprisonment<sup>38</sup> is a legal concept that refers to the unlawful and intentional confinement or restraint of an individual against their will, without lawful justification or consent. False imprisonment can occur in various contexts, including interpersonal relationships. False imprisonment against a spouse involves one spouse intentionally and unlawfully confining the other spouse, restricting their freedom of movement and depriving them of their personal liberty.

It is a violation of the spouse's fundamental rights and can have severe emotional and psychological consequences. The aggrieved spouse must prove that the other spouse intentionally confined or restrained them, must establish that they did not consent and must

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<sup>36</sup>The Editors of Encyclopaedia Britannica, 'Adultery', *Encyclopaedia Britannica* (15 September 2023) <https://www.britannica.com/topic/adultery> accessed 18 March 2026.

<sup>37</sup> Lance McMillian, 'Adultery as Tort' (2011) 90 *North Carolina Law Review* 1987.

<sup>38</sup> 'Action by a Wife against Her Husband for a Tort to the Person' (1914) 23(7) *The Yale Law Journal* 613 <https://doi.org/10.2307/784997> accessed 18 March 2026.

demonstrate that they had no reasonable means of escape from the confinement to establish a claim of false imprisonment.

When the claim of false imprisonment is established, then the spouse is entitled to remedies like damages where the aggrieved party is awarded compensatory damages for the harm suffered, which is physical, emotional and psychological harm and financial losses. The second remedy is that a court can provide an injunction to prevent the offending spouse from engaging in further acts or habeas corpus of false imprisonment and protect the rights of the aggrieved spouse. Third, when the actions of the offending spouse have demonstrated wilful misconduct, the court may award punitive damages to punish the wrongdoer and deter similar behaviour in the future.

**Invasion of Privacy:** Invasion of privacy<sup>39</sup> against a spouse under tort law refers to the violation of a person's right to privacy by their spouse, resulting in harm or distress. It involves the unauthorised intrusion into private matters or the public disclosure of intimate or personal information without consent. Situations in which it is recognised that one spouse has invaded the privacy of another spouse:

- When a spouse intentionally intrudes upon the privacy of the other spouse in a way that is highly offensive to a reasonable person.
- Public disclosure of personal and intimate information like private medical information, personal correspondence, or intimate photographs without consent about a spouse is highly offensive and not of legitimate concern to the public.
- When a spouse portrays the other spouse in a false or misleading light, resulting in harm or emotional distress, such as presenting information or making statements that distort the true image of the person, causing damage to reputation or humiliation.
- When a spouse uses the other spouse's name, image, or likeness for commercial purposes without consent by using their name or image in advertising, endorsements, or promotional materials without authorisation.

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<sup>39</sup> Laura W Morgan and Lewis B Reich, 'The Individuals' Right of Privacy in a Marriage' (2010) 23 *Journal of the American Academy of Matrimonial Lawyers* 111.

Legal remedies in this case will be damages, injunctive relief and a case and desist order where the offending spouse is to cease their invasive actions and desist from any further violation of the aggrieved spouse's privacy.

## CAPACITY TO SUE

The capacity of a spouse to sue<sup>40</sup> Their partner for intentional torts can be complex and varies depending on the jurisdiction and the specific laws in place. Traditionally, the legal principle known as "spousal immunity" prevented one spouse from suing the other for certain civil claims, including intentional torts. However, it's important to note that spousal immunity laws have evolved, and many jurisdictions have limited or abolished the doctrine.

Initially, under English law, husband and wife were both constituted as a single legal integrated personality; therefore, the wife had no right to sue her husband earlier for any wrong committed by him. Even she could not sue or be sued unless her husband joined her as a party to the suit, but later came the Married Women's Property Act 1882 and the Law of Reform (husband and wife) Act 1962, which changed the entire situation. Now, a married wife can sue her husband. She can sue a person without joining her husband as a party. In India, today, wives and husbands are regarded as different entities, and therefore, they can sue each other independently.

## LEGAL REMEDIES

**Common Legal Remedies:** Remedies to protect a spouse against intentional torts will depend on the specific jurisdiction and the laws in place.<sup>41,42</sup>

**Civil Lawsuits:** The aggrieved spouse can file a civil lawsuit against the spouse who committed the intentional tort. In such cases, they may seek compensatory damages to cover any physical, emotional, or financial harm caused by the tortious act.

**Restraining Orders/Protective Orders:** In situations where there is an immediate threat or danger, the aggrieved spouse can seek a restraining order or protective order from the court.

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<sup>40</sup> Scott W Brinkman, 'Husband and Wife—Interspousal Immunity—Intentional Torts—One Spouse May Sue the Other for Outrageous and Intentional Personal Torts' (1979) 48 *University of Cincinnati Law Review* 120.

<sup>41</sup> John J Farage, 'Recovery for Torts Between Spouses' (1935) 10(5) *Indiana Law Journal* 3.

<sup>42</sup> Douglas D Scherer, 'Tort Remedies for Victims of Domestic Abuse' (1991) 43 *South Carolina Law Review* 543.

These court orders can restrict the offending spouse from coming near or contacting the victim, providing a legal remedy to prevent further harm.

**Injunctions:** In certain cases, an injunction may be sought to prohibit the offending spouse from engaging in specific behaviours or actions. This can include orders to cease the tortious conduct or prevent the spouse from entering the marital home.

**Criminal Charges:** Depending on the nature of the intentional tort, the aggrieved spouse can report the incident to law enforcement authorities. If the tort constitutes a criminal offence, the offending spouse may face criminal charges and prosecution.

**Divorce Proceedings:**<sup>43</sup> If the intentional torts have significantly damaged the marital relationship, the aggrieved spouse may choose to pursue a divorce. Divorce proceedings can address the issues arising from the tortious conduct and provide legal remedies related to property division, child custody, and support.

**Mediation or Alternative Dispute Resolution:** In some cases, spouses choose mediation or alternative dispute resolution methods to address the intentional torts and work towards a resolution. This can involve the assistance of a neutral third party to facilitate discussions and negotiations.

**Compensatory Damages:** Compensatory damages aim to provide financial compensation to the aggrieved spouse for the losses suffered due to the intentional tort. This can include medical expenses, therapy costs, property damage, loss of income, and pain and suffering. The damages awarded are intended to restore the spouse to the position they would have been in had the tort not occurred.

**Punitive Damages:** In cases where the intentional tort was particularly malicious or willful, punitive damages may be awarded. Punitive damages are meant to punish the wrongdoer and deter similar behaviour in the future. The amount awarded goes beyond compensating the victim and serves as a form of punishment.

**Restitution:** Restitution involves requiring the offending spouse to reimburse the aggrieved spouse for any financial losses or damages they have suffered as a result of the intentional tort.

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<sup>43</sup> Premchand Dommaraju, 'Divorce and Separation in India' (2016) 42(2) *Population and Development Review* 195 <http://www.jstor.org/stable/44015635> accessed 18 March 2026.

It aims to restore the aggrieved spouse to the financial position they were in before the tort occurred.

**Court-Ordered Counselling or Therapy:** In cases involving emotional distress or psychological harm caused by the intentional tort, the court may order the offending spouse to provide financial support for counselling or therapy for the aggrieved spouse. This is to address the emotional impact and facilitate the healing process.

## CASE LAWS

*Henriksen v. Cameron*,<sup>44</sup> a 1993 Maine Supreme Court case often cited by other courts and commentators, upheld a jury verdict for an ex-wife against her ex-husband for his intentional infliction of emotional distress during the marriage. The court had earlier adopted, and applied in another context, the elements of the tort of outrage as defined by the Restatement (2d) of Torts section 46: (1) intent or recklessness; (2) conduct so "extreme and outrageous" as to exceed "all possible bounds of decency" and which must be regarded as "atrocious and utterly intolerable in a civilized community"; (3) causation; and (4) emotional distress so "severe" that no "reasonable man could be expected to endure it." In *Henriksen*, the court accepted without much discussion the jury's conclusion that the defendant had committed intentional infliction of emotional distress. It said that his actions "ranged from [defendant's] accusing Henriksen of 'sleeping with' his brother to his raping and assaulting her."

A second provocative case about intentional infliction of emotional distress is *Feltmeier v. Feltmeier*.<sup>45</sup> The decision has language recognising the seriousness of domestic violence as well as its former invisibility, together with an instructive policy discussion about intentional infliction of emotional distress, which implies that some inter-spousal violence is not tortious. Plaintiff's complaint, filed after her divorce, alleged that her husband had physically beaten her at least eleven times during the marriage, that he had physically restrained her on more than one occasion, that he had thrown objects at her, verbally attacked her, stalked her, and "systematically isolated her from family and friends." Defendant claimed that the conduct alleged, even if true, was neither extreme nor outrageous because of the "marital context" in which it arose. He further claimed that "any objectively reasonable woman could have endured the abuse that he is alleged to have administered without suffering severe emotional distress".

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<sup>44</sup> *Henriksen v Cameron* 622 A 2d 1135 (Me 1993).

<sup>45</sup> *Feltmeier v Feltmeier* 207 Ill 2d 263, 798 NE2d 75 (Ill 2003).

He argued that since the alleged physical abuse occurred only three or four times a year, the defendant's conduct was "marital conduct that any reasonable wife should be able to endure without suffering emotional distress" and thus the conduct was not extreme or outrageous.

The appellate court rejected this contention, describing the pattern of abuse that typifies domestic violence: "Even though the abusive events may occur only a handful of times over the course of a year, the repeated pattern of abuse inflicts daily psychic torment .... Domestic violence and domestic abuse can take many forms. The kind alleged here is extreme enough to be actionable. It combines more than a decade of verbal insults and humiliations with episodes where freedom of movement was deprived and where physical injury was often inflicted .... We are unwilling to dismiss it on grounds that it is unworthy of outrage."<sup>46</sup>

In *Pickering v. Pickering M*,<sup>47</sup> the ex-wife had lied to her ex-husband about his paternity of a child born during the marriage, causing him extreme distress and humiliation. It does not appear that physical abuse was involved. When he sued her for intentional infliction of emotional distress, the Supreme Court found that the lawsuit would subject the child to inter-familial warfare and that "attempts to redress wrong may do more social damage than if the law leaves it alone, " but the alienation of affections suit against the ex-wife's lover was allowed to continue.

## CONCLUSION

To conclude it is important for legal systems to strike a balance between protecting personal liberties and addressing the harm caused by adultery, ensuring that legal remedies are fair, just, and consistent with societal values., intentional torts against a spouse represent a grave violation of personal rights and can cause significant harm to the victim throughout this term paper we have discussed the intentional torts against spouse and the legal and tort remedies for the same. Legal systems have established a range of remedies.

These remedies aim to provide justice, compensation, and protection for the aggrieved spouse. It is essential to recognise that intentional torts against spouses are not acceptable or excusable under any circumstances. Marriage should be based on love, trust, and respect, and any form

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<sup>46</sup>Jennifer B Wriggins, 'Domestic Violence in the First-Year Torts Curriculum'.

<sup>47</sup> *Pickering v Pickering* 268 Mich App 1, 706 NW2d 835 (Mich Ct App 2005).

of intentional harm or abuse violates the very essence of this institution. Spouses should be treated with care, empathy, and support, fostering an environment of safety and mutual respect.

Efforts must be made to raise awareness about healthy relationships, promote education on conflict resolution and communication skills, and provide resources for counselling and support. Intentional torts against spouses are a serious matter that should not be taken lightly. The legal system has an essential role to play in providing remedies and protection for victims, but it also requires a broader societal commitment to fostering healthy relationships, preventing harm, and promoting a culture of respect and support within marriages.