



Human rights violation in India: A case of domestic harassment on women

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Abstract

Human Rights are basic right to which every individual is entitled as a human being. The human rights are compulsory obtainable however it is the minimum right for every individual. The constitution of India also envisages and guarantees the equality of rights for men and women. However, in the sphere of women's human rights in India, there exists a wide gulf between theory and practice. Indian society is a male dominated society where men are always considered to be superior. Violence against women is on the national agenda. Government is making frantic efforts to find solutions. The world has entered into a new millennium, but from the dawn of civilization till date, the woman of the patriarchal society of India continues to be oppressed and ill-treated. She is dependent, weak, exploited and faces harassment in every sphere of life. The gender-based violence that threatens the well-being, dignity and rights of women, extends across social, cultural, economic and regional boundaries. Instances of violence against women in ancient India are mentioned. Mahabharat cites the violence meted out to Dropti. Yudhishtir staked his wife Dropti in gambling and lost her, following which Duryodhana ordered his brother Dushasan to strip her in the royal palace and he attempted to do so, but Lord Krishna came to her rescue. In modern societies also violence and harassment against women is a major public health problem affecting women and children. This paper will throw light on the human rights of women in India and also on how all the fundamental rights given to the women are being violated in India, by focusing on the harassment subjected in form of domestic violence against them and their effect on her.

Keywords: Human Rights, women, domestic violence, health, harassment

1. Introduction

In the contemporary world voice of women has been increasingly being heard in the streets, in the courts and in Parliament. Yet issues concerning women have not been given priority in the society. While women in the West fought for a century to get back basic rights as that of right to vote, women in India were at an advantage where the constitution of India has granted equal rights to the men and women. The State shall not deny to any person equality before law or the equal protection of laws within the territory of India; ^[1] and State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them. ^[2] But today, it seems that there is a wide gulf between theory and practice. The women in India have always been considered subordinate to men. Though the provisions contained in the Indian constitution mandates equality and non - discrimination on the grounds of sex, women is always discriminated and dishonoured. Although various efforts have been taken to improve the status of women in India, the notion of gender equality as under the constitution is miles away from becoming a reality.

¹ Article 14 of Constitution of India.

² Ibid Article 15.

Indian Society has always revered women. In Hinduism, man and woman represent the two halves of the divine body. There is no question of superiority or inferiority between them. Hindu history is witness to the super-women, such as Gargi, Maitreyi and Sulabha, whose faculty of reasoning was far superior to that of ordinary mortals. Many female deities Saraswati, Durga, Laxmi, Kali etc., are worshipped across the country. According to the Mahabharat by cherishing the woman one virtually worships the goddess of prosperity. On the darker side, the patriarchal system has continued since the time of Rig Veda. Customs and values were made by men to favour men. Women suffer this discrimination in silence.

Historically, Indian woman has been made to adopt contradictory roles. The strength of a woman is evoked to ensure that women effectively play their traditional roles of nurturance as daughters, mothers, wives, and daughters-in-laws. On the other hand, the stereotype of a weak and helpless woman is fostered to ensure complete dependence on the male sex. [3]

2. Violence against Women

Violence against women happens from the interval of prebirth, earliest stages, youth, pre-adulthood, adulthood to senescence. The greater part of the information have been accepted to be inconsistent as numerous cases are being unreported. Instances of brutality against ladies have been consistently expanding in the country. As per the National Crime Record Bureau, India, there is one share demise in the country each 78 hours, one demonstration of lewd behavior each 59 min, one assault each 34 min, one demonstration of torment each 12 min and very nearly one in each three wedded ladies experienced abusive behavior at home.

Studies from India reported violence in 19–76% of women (75% [–76% in lower caste women; 42–48% in Uttar Pradesh and 36–38% in Tamil Nadu; and 19% in an urban slum community of childless women.) In Western India, 15.7% pregnancy-related deaths in the community series and 12.9% in the hospital series were associated with domestic violence. In Uttar Pradesh, 30% men reported beating wives. 22% of woman of childbearing age from a potter community were physically assaulted. 34% of those physically assaulted required medical attention. [4]

The population-based, multi centre based collaborative project of the study of abuse in the family environment (India-survey of abuse in family environment) was established in seven sites in India. It looked at the association with poor mental health. A total of 9938 women participated (from rural, urban slum, urban nonslum areas). 40% reported experiencing any violence during their marriage. 56% had self-report questionnaire scores indicating poor mental health. [5]

3. Violation of Human Rights of Women

Very often it is said that women in India are enjoying the rights equal to that of men. Nonetheless, the real scenario is totally contradictory to what the same has been portrayed in theory, the women in India have been sufferers from past. Not only in earlier times but even today women have to face discrimination, injustice and dishonor. The violation of

women human rights are evident in the past customary practices, which often proved to be against the notion of gender equality.

Violation of human rights of women in past

The women in the past times were subjected to the following harassments;

Devadasis: Devadasis was a religious practice in some parts of southern India, in which women were married to a deity or temple. In the later period, the illegitimate sexual exploitation of the devadasis became a norm in some part of the country.

Jauhar: Jauhar refers to practice of the voluntary immolation of all wives and daughters of defeated warriors in order to avoid capture and consequent molestation by the enemy. The wives of Rajput rulers, who were known to place a high premium on honour, followed this practice.

Purdah: Purdah is a practice requiring women to cover their bodies so as to cover their skin and conceal their form. It curtails their right to interact freely and it is a symbol of the subordination of women.

Sati: Sati is an old custom in Indian society, in which widows were immolated alive on her husband's funeral pyre. Although the act was supposed to be voluntary on the widow's part, however it is believed that sometimes same was forced on the widow. [6]

Violation of human rights of women in general

The Indian Constitution guarantees certain basic rights to women, which are often being violated by the traditional practices or by the system prevailing in the present society. These rights include Right to equality, Right to education, Right to live with dignity, Right to liberty, Right to politics, Right to property, Right to equal opportunity for employment, Right to free choice of profession, Right to livelihood, Right to work in equitable condition, Right to get equal wages for equal work, Right to protection from gender discrimination, Right to social protection in the eventuality of retirement, old age and sickness, Right to protection from inhuman treatment, Right to protection of health, Right to privacy in terms of personal life, family, residence, correspondence etc. and Right to protection from society, state and family system. Considering the circumstances and situation of women in India, the originators of Indian constitution also gave special rights to women for the empowerment of women.

4. Domestic Violence

Domestic Violence is undoubtedly a human right issue, and it utmost important to identify the real reasons for the domestic violence. The most common causes for women stalking and battering include: exploitation of women for demand of dowry, discrimination of women, alienation of women's self acquired property fraudulently, torture and harassment by husband and in-laws of the husband, arguing with the partner, refusing to have sex with the partner, neglecting children, going out of home without informing the partner, not cooking properly or on time, indulging in extra marital affairs, not looking after in-laws, cruelty by husband or in-laws mentally or physically, abusing & insulting by

³ Thara R. A Study of Disabled Women. Chennai (India): SCARF; 1997-1998. A study of mentally ill disabled women who have been separated/divorced.

⁴ Bhattacharya S, Pratinidhi KA. A community based study of infertile women from urban slum. Indian J Matern Child Health. 1994;5:15–6.

⁵ Kumar S, Jeyaseelan L, Suresh S, Ahuja RC. Domestic violence and its mental health correlates in Indian women. Br J Psychiatry. 2005;187:62–7.

⁶ Ritu Dhanoa, 'Violation of women Human Rights in India', International Journal in Multidisciplinary and Academic Research (SSIJMAR) Vol. 1, No. 4, November-December.

using vulgar language, sexual harassment, molestation, immoral traffic, rape, sodomy and all other inhuman acts. The above stated are bare minimum instances of the reason of women being subjected to domestic violence by the hands of her In-laws and in certain cases by her parents too. In all above stated causes women are subjected to torture and has been considered as the aggrieved person. Usually violence takes place due to lack of understandings between the couple as well as in the family. In India, more than 55 percent of the women suffer from Domestic Violence, especially in the states of Bihar, U.P., M.P. and other northern states. However due to societal norms Indian woman tries to conceal the same, as they are ashamed of speaking about the same. The pity women are unwilling to go to court because of lack of alternative support system.

The home is often equated with a sanctuary, a place where individuals seek love, safety, security and shelter. For some women, the home is a place that imperils lives and breeds some of the most drastic forms of violence perpetrated against girls and women. Violence is usually perpetrated by males who are, or who have been in positions of trust and intimacy and power e.g. husbands, fathers, fathers-in law, stepfathers, brothers, uncles, sons, or other relatives. The Protection of Women from Domestic Violence Act (PWDVA), 2005 ^[7] defines domestic violence as any act, omission or commission or conduct of the respondent, which includes threat or actual abuse.

The International Center for Research on Women (ICRW) in multiple centers in India reported that 85% of men admit they had indulged in violent behavior against their wives at least once in last 12 months. 57% of men admitted to have sexual abuse with their wives. 32% of men admitted to committing violence on their pregnant wives. The men indulged in violence to establish their power over the weaker sex. Subtle and insidious forms of violence include repeated humiliation, insults, forced isolation, limitations on social mobility, the constant threat of violence and injury, and denial of economic resources. ^[8] The act was introduced in India after lots of efforts and by socialist reforms. After the introduction of the the Act in India the women have been given protection from the violence which included all forms i.e. physical, mental, economical etc. However even after the introduction of the Act the execution of the orders from the Courts have been tedious process for aggrieved persons.

Child Marriage

Child marriage has been traditionally prevalent in India and continues to till date. UNICEF defines child marriage as marriage before 18 years of age and considers this practise as a violation of human rights. But a girl child in India is taken as a burden on the family. Sometimes the marriages are settled even before the birth of the child. In southern parts of India, marriages between cousins are common, as they believe that a girl is secured as she has been married within the clan. Parents also believe that it is easy for the child – bride to adapt to new environment as well as it is easy for others to mould the child to suit their family environment.

This shows that the reasons for child marriages in India are so baseless. Basically, this phenomenon of child marriage is linked to poverty, illiteracy, dowry, landlessness and other social evils. The impact of child marriage is widowhood, inadequate socialization, education deprivation, lack of independence to select the life partner, lack of economic independence, low health/nutritional levels as a result of early/frequent pregnancies in an unprepared psychological state of young bride. However, the Indian boys have to suffer less due to male dominated society. Around 40% child marriages occur in India. A study conducted by Family Planning Foundation showed that the mortality rates were higher among babies born to women under 18. Another study showed that around 56% girls from poorer families are married underage and became mothers. So, all this indicated that immediate steps should be taken to stop the evil of Child Marriage.

Dowry harassment and Bride Burning

Bride burning is linked to the custom of dowry, the money, goods, or estate that a woman brings to her husband in marriage. Thousands of young married women in India are routinely tortured and murdered by husband and in-laws who have insatiable hunger for luxuries which can be easily procured from the bride's parents. In spite of the Dowry prohibition Act passed by the government, which has made dowry demands in wedding illegal, the dowry incidents have been increasing day by day, especially in the villages. According to survey, around 5000 women dies each year due to dowry deaths and at least a dozen dies each day in the garb of kitchen fires for which the actual and real reason is getting less dowry.

The well-established act of share has continued and driven numerous ladies to self-destruction. In 50 locale court decisions, 1987-1989, Maharashtra, West India, there was endowment related viciousness. 120 instances of settlement passings and 20 instances of purposeful injury identified with endowment were distinguished. There were deliberate wounds, including actual savagery (59%), mental torment 28%, attack by relatives and backwardness (10%), and starving 3%. ^[9] The reasons for death in the ones who passed on were: Burns 46% and suffocating 34%. It is significant that the ladies were exceptionally youthful 88% under 25 years; 58% of them were childless, and 22% had just female youngsters. Provocation by parents in law on issues identified with share arose as a danger factor for poor emotional well-being. It is normal for the Indian setting. Endowment related savagery is on the ascent in India. In excess of 5000 ladies are slaughtered every year by their spouses and parents in law, who consume them in unintentional kitchen fires if their progressing requests for endowment when marriage are not met. On a normal five ladies daily are singed, and a lot more cases go unreported. ^[10]

5. Factors related to the domestic violence against women Psychiatric morbidity

Regular consumption of alcohol by the husband has been

⁷ Allahabad (India): Ekta Law Agency; 2007. The Protection of Women from Domestic Violence Act, 2005. Diglot Edition.

⁸ Washington (USA): ICRW; 2001. The International Centre for Research on Women. Domestic Violence in India II: Exploring Strategies, Promising Dialogue. ICRW Information Bulletin; pp. 1–8.

⁹ Seshu MM, Bhosale V. Sangli, Maharashtra, India: Meena Seshu; 1990. Imprisoning Womanhood: A Report of Death and Desertion and of Women

in Sangli district; p. 62. In: Women of South-East Asia, a Health Profile. Issue 34 of WHO regional publications: South-East Asia series. New Delhi: World Health Organization, Regional Office for South-East Asia; 2000.

¹⁰ Florence: Innocenti Digest, No 6. UNICEF Innocenti Research Centre; 2000. United Nations International Children's Emergency Fund (UNICEF). Domestic Violence Against Women and Girls. Magnitude of Problem; pp. 4–7.

strongly associated with poor mental health of women. ^[11] Alcohol has consistently emerged as a risk marker for partner violence that is specially consistent across a range of settings for all types of violence. Alcohol operates as a situational factor, increasing the likelihood of violence by reducing inhibitions, clouding judgment and impairing an individual's ability to interpret cues. ^[12] Others morbidities such as bipolar disorder, paranoid schizophrenia, delusional and antisocial personality disorder make the man more vulnerable to commit sexual crimes. There is evidence from many forensic cases (Bobbit, Manu Sharma, Nirbhaya etc.) that alcohol was the common denominator in violence against women.

Sociodemographic factors

Patriarchy has been cited as the main cause of violence against women. Early (15–19 years; 10–19 years), and young age (31–39 years), illiteracy, ^[13] coupled with low level of education, poor socioeconomic status, women with no income of their own, and urban domicile ^[14] have been cited as risk factors for domestic violence. Women engaged in small business and farming were more likely to be abused than women who were housewives or who had occupational status equal to that of husbands. Where women have a higher economic status than their husbands and are seen as having sufficient power to change traditional gender roles, risk for violence is high. Unmarried, separated or divorced status or being in a live-in relationship have been reported to be associated with violence against women. ^[15]

Family factors

Exposure to harsh physical discipline during childhood and witnessing the father thrashing the mother during childhood is a predictor of victimization and perpetration of violence against his wife in adulthood. Childlessness, ^[16] longer marital duration, having more children, extended family and large family size have been associated with victimization and perpetration of domestic violence. In addition, the age-old custom of dowry and gifts for husband and in-laws has been found to be strongly related to violence against women in India.

Shortcomings and Working

Although the Act is a foremost step towards keeping record on domestic violence, still the bare perusal of the act reveals that it aims to preserve the family then to protect people against domestic violence. The Act does have no provisions regarding marital rape, which is a form of domestic violence and very predominant. Other issue is that amongst the allegations of misuse of the Act by women, no provision was made for the women to be held liable in case of misuse. The major debate that followed was over the constitutionality of the act as it was not the same for men and they argued that it went against Article 15 of Right to Equality on the Indian Constitution. Relating to this issue, In a July 4th, 2008 decision in Aruna Parmod Shah v. Union of India WP (Crl.), the Delhi High Court dismissed the victim's mother-in-law's

contentions that the PWDVA was unconstitutional because it did not provide a remedy for men as well as women, and that holding relationships in the nature of marriage at par with marital relationships in Section 2(f) of the Act derogated the rights of legally-wedded wives. The Court held that the gender-nature oriented the PWDVA was a reasonable classification in view of the Act's object and purpose, and thus it was constitutionally valid.

The main issue and question which arises is that provision for shared household in the Act under Section 17 does not provide for substantive property rights over the property of her husband, it only gives a right to reside there. In the inception year of the Act, it was seen that implementation of the Act was rare in the states like Haryana, Punjab and Rajasthan and even basic provision of appointing Protection Officers was not enacted. With the evolution of time and passage of time from the enactment, the right of daughter in-law in shared household belonging to In-laws have been interpreted in different ways. Till date the judiciary itself is not clear what is the right of Daughter in-law in the shared house hold belonging to In laws. The judicial system itself have given contrary and contradictory views on same. Till date there is lacuna over the same and the right of daughter in law in the Inlaws house is still in abeyance.

Communities' response to violence

A few women-initiated community-level responses to domestic violence are praise worthy. The Nari Adalat and Sahara Sangh initiatives have been organized by the Department of Education's Mahila Samakya Program in two districts of Uttar Pradesh and Gujarat. Salishe, a traditional method, is being utilized by the Nongovernment Organisation Shramajibee Mahila Samiti in West Bengal. The ICRW conducted a television program in four channels entitled Bol.

One Stop Centre and Universalization of Women Helplines:

Ministry of WCD is administering two schemes from Nirbhaya Fund namely One Stop Centre and Universalization of Women Helplines. The One Stop Centres (OSCs), popularly known as Sakhi Centres, aims to facilitate women affected by violence (including domestic violence) with a range of integrated services under one roof such as Police facilitation, medical aid, providing legal aid and legal counselling, psycho-social counselling, temporary shelter etc. The Women Helpline (WHL) Scheme provides 24 hours emergency and non-emergency response to women affected by violence, both in public and private spaces by linking them with appropriate authority such as Police, One Stop Centre, Hospital, Legal Services etc. WHL also supports women in distress with rescue van and counselling services in addition to providing information about women welfare schemes and programs across the country. Women can dial 181 short code to avail services from Women Helpline.

Recently, Ministry of women and child development has launched 'Mission Shakti' (Integrated Women Empowerment

¹¹ Kumar S, Jeyaseelan L, Suresh S, Ahuja RC. Domestic violence and its mental health correlates in Indian women. *Br J Psychiatry*. 2005;187:62–7.

¹² Flanzer JP. Alcohol and other drugs are key causal agents of violence. In: Gelles RJ, Loseke DR, editors. *Current Controversies on Family Violence*. Thousand Oaks, CA: SAGE; 1993. pp. 171–81.

¹³ Sarkar M. A study on domestic violence against adult and adolescent females in a rural area of west bengal. *Indian J Community Med*. 2010;35:311–5.

¹⁴ Kar SK. Domestic violence in Eastern India: Factors associated with victimization and perpetration. *Public Health*. 2010;124:136–48.

¹⁵ Koenig MA, Ahmed S, Hossain MB, Khorsheed Alam Mozumder AB. Women's status and domestic violence in rural Bangladesh: Individual- and community-level effects. *Demography*. 2003;40:269–88.

¹⁶ Koenig MA, Stephenson R, Ahmed S, Jejeebhoy SJ, Campbell J. Individual and contextual determinants of domestic violence in North India. *Am J Public Health*. 2006;96:132–8.

Programme) - an Umbrella Scheme in a mission mode aimed at strengthening interventions for safety, security and empowerment of women. It seeks to realise the Government's vision for 'women-led development' by addressing issues affecting women on a life-cycle continuum basis and by making them equal partners in nation-building through convergence across Ministries/ Departments and different levels of governance, greater participation and support of Panchayats and other local governance bodies and Jan Sahabagita, apart from strengthening digital infrastructure for last mile tracking of service delivery. It created awareness among women.

6. Domestic legal remedies in India

The Constitution of India: Article 14 is on equality. Difference in treatment between men and women by the state is totally prohibited on grounds of religion race, caste, sex or place of birth. Article 21 is on right to live; right to live with human dignity."

The National Commission for Women: It was set up as a statutory body in January 1992 under the National Commission for Women Act, 1990 to review the constitutional and legal safeguards for women; recommend remedial legislative measures, facilitate redress of grievances and advise the Government on all policy matters affecting women.

The legislation relating to violence against women comprises the Indian Penal Code (IPC), civil law and special laws. Dowry and dowry death: The Dowry Prohibition Act (DPA), 1961^[17] applies to all people, Hindus, Muslims, Christians, Parsis and Jews. Giving, taking or abetting the giving or taking of dowry is an offence, which is punishable. Several states (Bihar, West Bengal, Orissa, Haryana, Himachal Pradesh, and Punjab) amended the DPA to give it more teeth. The law was found to fail to stall the evil."

7. Conclusion

In this way Nonetheless, India has made progress in correspondence acquire for women, numerous man centric and obsolete laws presently can't seem to be acclimated to mirror the changing mentalities in India. Presently its chance to think past philosophy, a universe of more prominent difficulty for women, who penance their character, correspondence and expectations, in a general public overwhelmed by male qualities, Question consistently emerges whether the laws and society's guidelines guarantees that women get their privileges? Also, that their basic freedoms are ensured? What is needed at present is the recognition of women's equal humanity and a continuing response to the persistent realities of the contemporary world. The right of every individual is to do what he/she values and becoming and being human is always more difficult for a women in the present world. Last, however not the least, if we are intensely work upon same, indeed the outcome will be positive. Let us all say No to violence against women."

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