

**INSIGHT INTO THE FACTORS PREVAILING VIOLENCE AGAINST WOMEN
LEGISLATIVES AND IMPROVEMENTS IN LEGISLATIVE SYSTEMS TO
COMBAT VIOLENCE IN INDIAN SOCIETY**

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ABSTRACT:

Instances of violence against women has been reported in Indian society from ancient times. Some cases are reported but most of these are concealed in the appellation of pride. Patriarchal system is considered as the starting point of violence against women in Indian society as this system was completely developed by men to give importance to men. Several other factors like psychiatric morbidity, sociodemographic factors, family factors etc. and many other social and cultural factors are involved in prevailing violence against women. Legislations are always playing their role in combating it but have failed badly due to unaccountable and inappropriate judicial system also the law enforcement agencies have flopped to deter numerous crimes. In this article we have highlight important factors involved in violence against women in Indian society and legislative system of India is compared with international legislative system. Moreover, improvements in legislative system to ensure complete eradication of violence in Indian society is also described.

INTRODUCTION:

Women are always venerated in Indian Society. Males and females are considered as vital halves of the deific soul and no question can be raised regarding ascendancy or subsidiarity among them. History has witnessed countless superwomen in Hinduism i.e. Gargi, Maitreyi and Sulabha, whose interpretation for certain directions was a way superior than conformist individuals. Number of female divinities i.e. Saraswati, Durga, Laxmi, Kali etc. are adored nationally and internationally. Mahabharat has revered the women by giving her an honor equal to the worship of deity of affluence. However, the emergence of patriarchal system from the time of Rig Veda has severely affected women as the customs and ethics were erected by men to favor their gender. But the women have endured this prejudice in reticence. In the past, Indian women were forced to embrace such conflicting characters. The forte of her is conjured to make certain that they realistically play their customary roles of nurturance in the form of daughter, wife, mother and daughter-in-law. Moreover, a label of “weak and destitute woman” has shown a complete reliance on the male for their basic needs (Thara, 1998)(1)

Viciousness of women rights trample its paws from the period of infancy, puberty, parenthood to senescence (Florence, 2000)(2). However, the data is believed to be erroneous as number of cases have remained in unreported sector. The domestic violence is increasing on exponential rate in India. National Crime Record Bureau stated that, after every 78 hours, a death of a female individual is reported in a country due to dowry, one malicious act of sexual aggravation arise after every 1 hour, a rape victim appears in society after every 34 min, an act of torture also appears after every 12 min and almost 1 percent of women from every three married women experience domestic violence (NCRB, 1997)(3). Studies from India stated violence in 19-76% of women (Mahajan, 1990)(4)–76%(Mahajan, 1995)(5) in lower caste women; 42–48% in Uttar Pradesh and 36–

38% in Tamil Nadu;(Jeejebhoy, 1998)(6) and 19% in an urban slum society of childless women(Bhattacharya & Pratinidhi, 1994)(7). Pregnancy related deaths have reached to a15.7% pregnancy related deaths have been reported in Western India and 12.9% of deaths in hospital are all carrying their roots in domestic violence (Ganatra, 1996)(8). 30% of men were reported to beat wives in Uttar Pradesh (Narayana, 2000)(9) 22% of pregnant women from a potter community were substantially mugged and 34% of physically assaulted women required medical devotion(Rao, 1997)(10).

However, the government has taken action by establishing residentially based collaborative project in order to study an abuse in the family environment at seven different sites in India (Kumar et al, 2005)(11). In this project, 9938 women participated from different sectors of community and from them 40% were reportedly experiencing domestic violence after marriage. Moreover, 56% of women had self-report questionnaire scores that indicated deprived mental health. In this article we have highlighted the factors that have collaborated with violence against women in India and legislative roles in combating or promoting this violence.

1 IMPORTANT FACTORS INVOLVED IN WOMEN VIOLENCE:

1.1. Psychiatric morbidity:

A regular uptake of wine goblet by husbands have drastically affected the women mental health condition (Kumar et al, 2005)(11)(Jeyaseelan et al, 2007)(12). A significant proportion of alcohol has act as a risk indicator for partner violence (McCauley et al, 1995)(13) in all types of ferocities(Babu & Kar, 2010)(14). Alcohol act as a situational element in heightening the likelihood of violence by tumbling the cloudy judgement and impairs the individual's ability to construe cues (Flanzer, 1993)(15). Some other illnesses that mainly include bipolar disorder, paranoid schizophrenia, and antisocial personality disorder has made guys more susceptible to perpetrate delinquencies related to sexuality. A forensic report has indicated that alcohol is a major (Bobbitt, Manu Sharma, Nirbhaya etc.,) factor in violent behavior against females.

1.2. Sociodemographic factors:

The Notion of Patriarchy is considered to be a fundamental cause of ferocity against women folk. An age of 15-19 years, (WHO, 2005)(16); and young age (31–39 years) along with illiteracy(Sarkar, 2010)(17), has tied with truncated educational level. Moreover, deprived socioeconomic status (Kumar et al, 2005)(11), women having no source of income (Nambi, 2011)(18) and urban abode(Babu & Kar, 2010)(14) are also considered as major indicators of domestic violence. Women having blue collar status were molested in rather drastic way as compared to those who were housewives or having professional prestige equal to their husbands (Babu & Kar, 2010)(14). However, in certain cases, women who have a higher financial prominence than their husbands and carry an immense power to change traditional gender roles are also at a brink of violence (Babu & Kar, 2010)(14)(Koeing et al, 2003)(19). Unmarried(Sarkar, 2010)(17), having separated/divorced status, or being in a live-in relationship(Babu & Kar, 2010)(14) (WHO, 2005)(16) have been testified to be part of this evil phenomenon.

1.3. Household factors:

Being part of strict physical restraint during early childhood and endorsing the father thumping a mother is a prognosticator of persecution and execution of vehemence against his companion after marriage (Kumar et al,

2005)(11) (Jeyaseelan et al, 2007)(12) (Nambi, 2011)(18). Infertility (Koeing et al, 2006)(20), extended matrimonial duration, having more offsprings, have also been linked with enactment of domestic ferocity(Kumar et al, 2005)(11). Moreover, the oldest tradition of dowry, gifts for spouse and majorly in-laws have been fervently connected to viciousness against females in India. (Kumar et al, 2005)(11) (Jeyaseelan et al, 2007)(12) (Babu & Kar, 2010)(14)

1.4. The triple tragedy: Married women with mental illness:

Females having acute psychological sicknesses are eschewed on three levels; the feminine status, neurosis and separated/divorced status constitute a three-way tragedy(Sharma & Tripathi, 2009)(21). For number of women, it acts as no-triumph state. Such women are neither welcomed at parent's homes nor at their husbands' dwellings. They are most likely to be feeble and deteriorate from array of strains that are not unique to Indian culture(Sharma et al, 2013)(22).These mainly include partial abandonments, enforcement to live with least liked husband, not welcomed at their own homes, parents are forced to pay for medical expenses etc. However, the condition with respect to marrying a woman with psychological disorders has enthralling perspective in India. This phenomenon is described by Sharma and Tripathi in an "Indian paradox" writing (Sharma et al, 2011)(23). There exists odds and chances to marry women with cerebral ailments, occasionally when there is dynamic psychopathology, as maximum matrimonies are orchestrated, and it becomes conceivable to entice the other party with a sizeable dowry. Despite all ferocities, they make feverish efforts for restoration of married rights inspite of estrangement or divorce(Sharma et al, 2011)(23). There are just some important factors embroiled in promoting violence against women but some other cultural and traditional factors like modernization, early marriages, life stress etc. also have an influential place in promoting violence against women.

2. LEGISLATIVE ROLE AGAINST WOMEN VIOLENCE:

2.1. International legislatives role in combating Vehemence against women:

Internationally, different mechanisms have been emerged to curtail violence against womankind. Resolution passed by United Nation General Assembly has advocated the need of universal application in favor of women's equality, security, freedom veracity and decorum. The Article 55 and 56 of United Nations contract has trouped a lawful compulsion to foster human rights. According to article 5 of Universal Declaration of Human Rights, no individual would be imperiled to hound, brutal and demeaning treatments (Das, 1948) (24). United Nation has conducted three conferences for Women rights. First one occurred in 1975 at Mexico, second occurred in Copenhagen in 1980, and the last gathering was there in Nairobi, where policies were erected to elevate the concept of gender parity and prospects for females. All these conferences talked about gender equality, development and peace.

The Vienna Declaration, 1993(Das, 1993) (25) calls for an act that defines equal status of women. It emphasizes abolition of violence in public and private life. In 1995, Beijing Conference (New York: UN Department of Public Information; United Nations) (26) presented a manifesto for absorption of key issues related to obstructions in the progress of women in the world. It talked openly about bigotry and violence against women. A landmark document, The Convention to which 166 countries are members talked about Elimination of all forms of Discrimination against Women (CEDAW), 1981(UNC, 1989)(27), edges violence against women within the framework of human rights.

2.2. Indian legislatives role in combating Violence against women:

The Indian Constitutional article 14 is based on equality (Das, 2007)(28). Discrepancy in behavior amid males and females by the country land is absolutely outlawed on the perspective of religion, race/cast, sex and birth place. Article 21 talks about the right to live with human self-esteem.

In January, 1992 The National Commission for Women was set up as a legislative under the National Commission for Women Act, 1990 (NCWA, 1990)(29) in order to re-evaluate legitimate and legal protections for womenfolk; endorse educative statutory actions, facilitate reimbursement of accusations and instruct the Administration on the issues that are distressing women.

The regulation of Supreme Court regarding sexual harassment at workplace elicited upon an international human rights law instrument, the CEDAW to approve guidelines. The Court defined it as any unsolicited act that is voluptuous in one way or another. "It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required."

Legislations related to vehemence in contradiction of womenfolk includes the Indian Penal Code (IPC) (Delhi, ULP, 2003)(30), civil law and special laws. In 1961, Dowry Prohibition Act (DPA) (Delhi ULP, 2008)(31) pertains to all people belonging to any religion in country. Offering, accepting or inciting the movement of dowry would be considered as an infringement act. However, numerous states including Bihar, West Bengal, Orissa, Haryana, Himachal Pradesh, and Punjab have altered the DPA to give more disastrous form. Resultantly, commandment failed to halt the malevolent. Where the demise of a female is instigated by any burns, body injury or under regular settings within 7 years of wedding, and if shown that soon before her death, she was imperiled to nastiness or aggravation by her husband or his family members or in connection with any mandate of dowry, such death shall be called "dowry death" and such husband or relatives shall be considered to be culprits (IPC 304-B). (Delhi, ULP, 2003)(30) In 1872, another 113-B Indian Evidence Act was erected the rules for the presumptions to dowry deaths. If any individual under 18 years of age or an idiot, impractical person commits suicide, then the one who assisted the command of such suicide, shall be castigated with death, imprisonment for < 10 years and shall be accountable for fine (305 IPC). (Delhi, ULP, 2003)(30). However, the rule has its flaw in a way that if the victim has major psychological problems, the defendant is benefited and exonerated ultimately. In nutshell, the breaches of dowry and commitment of of suicide are cognizable, unbailable and non-compoundable acts.

A lad is considered to be a culprit of rape if he has undergone a sexual relationship with a woman without her consent or with her accord in way that women thinks the person is his lawful husband but he is not or the women is befuddled by man. However, the sexual association with his lawful wedded mate not under 15 years of age is not considered as rape. (375 IPC) (Delhi, ULP, 2003)(30). The latter provision has flaws as it doesn't incorporate marital rape in it. Willingly having lascivious intercourse against the nature with any human or animal is considered to be a crime for which a person shall be prisoned for life. Therefore, this provision is used hardly (377 IPC) (Delhi, ULP, 2003)(30).

The malicious demeanor of the husband or his relative that forces the women to commit suicide or bring physical or mental trauma to her or harassing women with a view point of strong-arming her or any of her

relative to meet any illicit petition for possessions would be indictable for imprisonment of 3 years and fine (498A IPC) (Delhi, ULP, 2003)(30). This provision is used widely in the country. Other offences that are mentioned in IPC (Delhi, ULP, 2003)(30)include:

- **Instigating miscarriage (312 IPC)**, prompting miscarriage without consent of woman (313 IPC), bringing death with an intent to cause miscarriage without women's consent (314 IPC), and any act that prevent the birth of child or bring death after birth (315 IPC) and causing demise of rapid unborn child by phenomenon not mounting to blame worthy homicide (316 IPC).
- **The Family Courts Act, 1984:** Act was formulated to secure prompt defrayal of quarrels linked to matrimonial and private matters (The Family Courts Act, 1984) (32).
- **The Indecent Representation of Women (Prohibition) Act, 1986:** It proscribes the inappropriate portrayal of womenfolk through commercials or magazines, writings, paintings, figures etc.is verboten (The Indecent representation of Women (Prohibition) Act, 1986)(33).

The Commission of Sati (prevention) Act, 1987 (The Commission of Sati (Prevention) Act, 1987) (34) is for the exaltation of sati.

Protection of Women From Domestic Violence Act(PWDVA), 2005(Allahabad (India): Ekta Law Agency; 2005)(35) was legislated to offer for successful fortification of the rights of women who are victims of any kind of violence within the family. It includes physical, verbal, emotional (including marriage without consent or not having male child), economic (including dowry and property etc) and sexual (includes erotic abuse and marital rape) violence. It also defined an aggrieved person (AP) as a woman who has been in a domestic relationship with the respondent. The respondent is a masculine individual who is in native relationship with AP. However, there is a condition for various orders related to protection, residency, custody and emergency help. Moreover, there is a provision for assistance from counselor, police and anyone who is initiating criminal proceedings.

The PWDVA has good attributes within it. It is approachable to deprived and uneducated women and edifies the women regarding privileges and existing succor; stipulates relief (which enables psychosocial reintegration). Moreover, it gives unrestricted legal assistance and aid to initiate lawful proceedings against respondent; and most importantly it vests lady. The main criticism in this act was regarding the psychological illness of AP or respondent that was not responded in a proper way. In spite of this, there are mixed rejoinders toward few legislations including PWDVA, DPA and IPC 498A, as they have been recurrently molested and reflected "anti-men" status.

3. IMPROVEMENTS IN LEGISLATION TO ERADICATE WOMEN VIOLENCE:

3.1. Change in mind set of judiciaries:

Indira Jaising, Additional Solicitor General of India, rightly stated "It's time for India's courts to gaze inward and throw out deeply embedded patriarchal notions that stop judgments from being fair to women. Sexism within the system has to go before it does more damage in the country." (Jaising, 2013)(36) A High Court judge in Orissa in his judgment once eminently held "It was not possible for a man, acting alone, to rape a woman in good health." (Jaising, 2013)(36).

3.2. Amendments in existing legislations:

Mental illness shall not be considered for marriage in Hindu Marriage Act (1955)(The Hindu Marriage Act, 1955)(37). Previous mental disorders should not act as causative agent in nullifying the marriage. PWDVA, 2005 and DPA, 1961: Evaluation for spiritual ailments may be assimilated in the code civil dealings so that the mental sickness may be acknowledged in the victim (woman) and/or offender (male relative) and treated hastily. In this way violence from the community can be eradicated.

3.3. New legislations:

There is a need of New legislation for giving “Interim Relief” (hefty quantity of coinage that the wrongdoer pays) to a casualty of severe sexual attack. This amount of money may be granted in order to rehabilitate the victim. Rehabilitation of sexually assaulted individual should be the responsibility of Government or State. The legislation should erect the act of boosted castigation for the fierceness against women who is suffering from mental illness.

3.4. Appropriate application of laws in the setting of mental illness:

A complicated however, a very crucial matter to be taken into account. Magistrates and Law lords handling such cases should carry degree of both legal affairs (LLB) and medical matters (MD Psychiatry/DPM).

CONCLUSION

It is matter of significant attention that a single act of rape can collapse all the means of halting violence. Response in a way of testimony of augmented retribution is largely a manifestation of feebleness and exasperation. Prevention and rehabilitation should be a matter of significant importance. Legislation itself cannot do anything, because violence against women has strengthened in its roots in our community. It is worth mentioning that late Prime Minister, Jawaharlal Nehru remarked: “Legislation cannot by itself normally solve deep rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential and hence that it may give that push and have educative factors, as well as the legal sanctions behind it, which help public opinion to be given a certain shape.”. However, women cannot resolve their glitches on their own. They should comprehend men and males should appreciate the rights and needs of women. Both should take part in bringing peaceful environment in the society.

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