

Gender Symmetry & Asymmetry in Domestic Violence Act: The Sexist Prejudice

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Abstract

Domestic Violence is a major social quandary, but men who face domestic violence in India have nowhere to head in view that the law doesn't deal with them as victims. In the absence of any systemic data and with more men coming up and reporting violence by women, it is important to understand and examine the issues of violence against men by the opposite gender and associated factors with it. With changing roles of gender and power relations, it is assumed that this issue of violence by women will rise in the future, which will have very far-reaching consequences and implications for the larger chunk of society and also on the relationships between men and women. Through this paper, the author is trying to showcase the dynamics and factors that play or will play a critical role in escalating violence against men by women. Data is based on empirical method of study.

Key words : Domestic violence, men, women, gender neutral

I. Introduction

*“52,000 married men are committing suicides which are
Very much high almost 78% as compared to
married women suicide which is just 28,000.
Still there is no LAW to Protect Men why?”*

- (Crime Bureau Data, 2005, on Married Men suicide)

Domestic Violence has been recognized across the world as a type of violence that influences a man or woman's existence in each means – bodily, mentally, emotionally and psychologically – and is a violation of common human rights. Quite a lot of countries have recognized it as a significant threat to a man or woman's overall wellness. India has additionally identified domestic violence as a crime and supplies comfort and safety from it – albeit to just ladies!

Indian men's facing domestic violence at the hands of wife or female associate is a harsh truth. Nonetheless, no one including our government has taken any step on addressing it. Domestic Violence is a major social quandary, but men who face domestic violence in India have nowhere to head.

In most of the countries, the laws in opposition to domestic violence provide safety to both men and females. But in India the case is not same, men are not regarded as victims as per the Domestic Violence Act.

The patriarchal consideration that “Mard ko Dard nahi hota” (Men don't feel agony) affects boys from a very younger age which teaches them to tolerate abuse and feel glorified about making sacrifices.

⁴³¹Report, Crime Bureau Data, 2005, “On Married Men Suicide”.

II. Denotation of Domestic Violence

Aggressive behavior at home is an example of harsh conduct in any relationship that is utilized by one accomplice to pick up or keep up power and control over another close accomplice. Aggressive behavior at home can be physical, sexual, financial, mental activities or dangers of activities that impact someone else. This incorporates any practice that scares, control, mortify, separate, panic, threaten, force, debilitate, accuse, hurt, harm, or wound somebody.

Violence against Men By Women: Nature And Form

Numerous men have reported that when they return home, typically their better half begins protesting, mumbling, and reviling. Numerous men reported that ladies withhold sex without reason, as by and large men in India don't prefer sex outside marriage. It was additionally reported by numerous men that sex is a bartering instrument for ladies. Numerous men reported that they are terrified of their spouses and their in-laws. Numerous men are debilitated by their in-laws to go about as their spouses say. This likewise demonstrates that generally ladies against men are verbally oppressive. They affront men, even affront their matured guardians. For the most part physical inability in the room happens in view of mockery by the spouse. This verbal mishandle prompts mental torment. For the most part, society considers that ladies can't be verbally or rationally oppressive or hassle men. In some cases, it was also found and reported that when things go wrong or when husband is not following what his wife is demanding, her family and in-laws start to threaten to charge him with false cases such as anti-dowry 498A or the Domestic Violence Act of 2005.

Why Men Are Silent

The word man is one-sided, it signifies manly conduct, appearance and control of feeling (It is trusted that men have less feeling than ladies, notwithstanding it is not experimentally demonstrated). Men for the most part feel that if they disclose their anguish out in the open then no one will trust them or consider them important, furthermore as a result of shame. The explanation behind this is our male dominated society where men are viewed as more capable. Men additionally fear that if they disclose about their sufferings to others then they may be viewed as less masculine (can be named as an impact of prevalent saying "Mard ko dard nahi hota").

The vast majority of the wrongdoings done against men don't get enrolled and it is a result of the mindset of society. A man endures without complaining due to numerous reasons, like:

- i. **Failing to Accept:** The dissent of wrongdoing by the casualty just draws out the manhandling. Much the same as ladies who experience the ill effects of aggressive behavior at home, yet don't acknowledge it as violence, men too fall in the similar class.
- ii. **Embarrassment:** Look at the opposite side of the coin, aside from your position, statement of faith, age; you are judged by what sex you are. The Indian culture tries to conceal the issues where men are put on a show of being powerless.

⁴³²Viraj R Dhulia, Domestic Violence Against Men: High time Government addressed the problem, NEWS 18, Retrieved from <http://www.news18.com/news/india/domestic-violence-against-men-high-time-government-addressed-the-problem-1004785.html> on 1st Oct. 2017.

⁴³³National Domestic Violence Hotline, National Center for Victims of Crime, WOMENLAW.ORG Retrieved from <https://www.justice.gov/ovw/domestic-violence> on 2nd Oct 2017 at 6:10 am.

⁴³⁴Anant Kumar, Domestic Violence against Men in India: A Perspective, JOURNAL OF HUMAN BEHAVIOUR IN THE SOCIAL ENVIRONMENT, 22:3, 290-296.

- iii. **Family Pressure:** Society does not permit a powerless men-picture to be depicted thus the family pressurizes the casualty. Due to this, men remain silent about their sufferings.
- iv. **False Case Charges:** The law in India is fixing against any sort of wrongdoing against ladies however they have neglected to fill in the escape clauses. Similar laws are utilized to make false charges against men for cash, sexual points of interest and numerous different reasons.
- v. **The Paralyzed Law:** The country is in desperate need to make laws where men are focal point of subject and can deliver or address any sort of false charges and wrongdoings. The human rights and gender balance ought to incorporate both men and women.

III. Health Consequences of Domestic Violence on Men

The results in opposition to men in India, is basically emotional and psychological in nature. The physical harassment because of domestic violence, additionally affects their lives and productivity however it's far nonetheless more willing toward the emotional troubles which men face in India. It is basically due to the fact many such cases cross unreported, as compared to cases of physical assault of women.

An emotionally pressured and depressed man may lose interest in the occupation he's related to. If he is the simplest bread-earning man or woman in the circle of relatives, the own family may additionally discover it hard to live to tell the tale.

There has been a spate of farmers' suicide in recent years in Karnataka. Numerous farmers committed suicide not only due to indebtedness but additionally due to discord in own family and depression ensuing out of it.

The SIFF Survey

Save Family Foundation and My Nation led a study about Domestic Violence against Men everywhere throughout the India through 5 online Groups and 10 on field NGOs according to the meaning of "Abusive behavior at home" from April 10, 2005 to March 30, 2006.

From all over India, 98% of the respondents said that they had endured abusive behavior at home more than once in their lives. The study included Indian Husbands from different financial strata yet the heft of the respondents, as indicated by the researchers, originated from the upper working class and white collar class. The study was conducted by specialists and IT Engineers Community of Save Family Foundation and My Nation. About 1650 Husbands aged between 15-49 years and selected through random sampling were interviewed using a schedule that was adapted from the WHO multi-country study on Husband's health and domestic violence. The study looked at all four important aspects of domestic violence — Economical, emotional, physical and sexual. Economical violence was found to be very common with 32.8% respondents saying they had faced it at least once, followed by emotional (22.2%), by physical (25.2%) and sexual violence (17.7%). As per the research the probability of violence increased significantly with the duration of marriage particularly if it was more than seven years old. The respondents came from diverse backgrounds and the study was limited by the fact that Indian Husbands as a rule are not so open about domestic violence issues. Yet the figures were significantly high. In every 8 minutes

⁴³⁵Mahajan & Mradula, Crime against Men In India, INDIAN YOUTH NET, Retrieved from <http://www.indianyouth.net/crime-against-men-in-india/> (last updated on 3rd October 2015) on 3rd Oct, 2017.

⁴³⁶Retrieved from <https://standupforacause.wordpress.com/tag/male-domestic-violence/> on 5th Oct, 2017 at 5:45pm.

one Indian Man ends his life and the chances are 200% higher after marriage as per statistics of CBI . The study found that a high proportion of Indian Husbands who had experienced domestic violence were either well educated or earned good amount of money.

IV. Protection of Women from Domestic Violence Act, 2005

Protection of Women from Domestic Violence Act 2005 is an Act by the Parliament of India which is enacted to protect women from domestic violence. It was brought into force by the Indian government on 26 October 2006. The Act provides for the first time in Indian law a definition of "domestic violence", this definition is broad and includes not only physical violence, but also other forms of violence like emotional/verbal, sexual, and economic abuse. It is a civil law meant mainly for protection orders and not meant to penalize criminally.

Protection of Women from Domestic Violence Act, 2005 contains five chapters and thirty seven sections.

Constitutional Perspectives

The act in question was passed by the Parliament in accordance to Article 253 of the Indian Constitution. This provision gives the Parliament the power to make laws in pursuance of international treaties, conventions, etc. The Domestic Violence Act was passed as per the recommendations of the United Nations Committee on the CEDAW . The Act includes all the provisions of the Specific Recommendations which form a basic part of General Recommendation no.19 of 1992.

Denotations under Domestic Violence Act, 2005

(a) Domestic Violence

The term 'abusive behavior at home' has been utilized as a part of amplest sense which covers all types of physical , sexual, verbal, passionate and monetary mishandle that can hurt, make harm, imperil the wellbeing security, life , appendage or prosperity either mental or physical of the bothered individual.

(b) 'Aggrieved individual'

The term 'aggrieved individual' includes a lady who is the sexual accomplice of the male, independent of whether she is legitimate or not. Any girl, mother, sister, widowed relative, indeed, any lady dwelling in the family unit who is connected somehow with the respondent is secured by the Act.

⁴³⁷Save Indian Family Foundation (SIFF) is a men's rights group in India and member of the umbrella organisation Save Indian Family. It is a registered, non-funded, non-profit, non-governmental organisation (NGO) and works with various likeminded NGOs in India.

⁴³⁸My Nation is an organization fighting against the gender biased laws in the country.

⁴³⁹World Health Organisation - WHO's primary role is to direct international health within the United Nations' system and to lead partners in global health responses.

⁴⁴⁰Crime Bureau of Investigation is the national investigation agency for investigation and collection of criminal intelligence information.

⁴⁴¹Bhutani Nupur, The Hidden Side Of Domestic Violence, 2010 – 2013, Pg 45 – 50, Save Family Foundation Report, http://savefamily.in/reports/Dv_Act_study.pdf accessed on 7th Oct, 2017.

⁴⁴²Retrieved from <http://www.icrw.org/files/images/Reducing-HIV-Stigma-and-Gender-Based-Violence-Toolkit-for-Health-Care-Providers-in-India-Annex-4.pdf> on 7th Oct, 2017.

⁴⁴³Note: The Domestic Violence Act, 2005 was brought into force by the Indian Government from 9th Oct, 2017.

(c) 'Respondent'

The expression "respondent" infers "any male, adult person who is, or has been, in a domestic relationship with the aggrieved person."

This Act ensures that the respondent's mother, sister and different relatives don't go free, the body of evidence can likewise be documented against relatives of the spouse or the male accomplice.

Criticisms of This Act

Under this law, the "aggrieved person" is defined as "any woman who is..." and it does not include men. So this law says only women can be victims of domestic violence and hence we don't see any cases of domestic violence on men being reported.

Many people think this as true as they think that men are physically stronger and hence protecting women is more justified.

Domestic violence is defined under four broad categories as follows –

1. Physical Abuse
2. Sexual Abuse
3. Verbal and Emotional Abuse and
4. Economic Abuse

1. Physical Abuse

In this Act, physical mishandle implies – creating substantial mischief, risk to life, appendage or wellbeing. This includes ambush, criminal terrorizing and criminal compel. Individuals feel that typically men are rough and ladies are not and subsequently the meaning of abused individual as "lady" is believed to be correct. And due to this, men are not given a chance to file a case under the Domestic Violence Act. But this is not right because women are equally able as men to cause physical abuse.

2. Sexual Abuse

The meaning of sexual manhandle too says – "direct of a sexual sort that misuse, embarrasses, debases the dignity of a lady". This definition unmistakably denies equity to men and says that manhandle, mortification or infringement of pride can't occur to a man. On the off chance if there is a bungle in sexual drives between the man and the lady, then the man turns out to be an attacker. Along these lines this Act overlooks this type of abusive behavior at home against men.

⁴⁴⁴The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it was instituted on 3 September 1981 and has been ratified by 189 states.

⁴⁴⁵Harini Sudersan & Niruphama Ramakrishnan, The Domestic Violence Act: Constitutional Perspectives, LEGAL SERVICES INDIA, retrieved from <http://www.legalserviceindia.com/articles/dmt.htm> on 14th Oct, 2017.

⁴⁴⁶The Protection of Women Domestic Violence Act, 2005, No. 43, Acts of Parliament, 1992 (India).

⁴⁴⁷Ibid.

⁴⁴⁸Ibid.

3. Verbal and Emotional Abuse

This definition incorporates – "Affront, disparage, embarrassment, verbally abusing or uncommonly affront for not having a child" or "rehashed risk to bring about physical torment to any individual to whom the bothered individual is connected". The Act assumes that ladies can't affront, criticize or mortify others.

4. Economic Abuse

The meaning of monetary mishandle under this law is – "hardship of all or any financial or budgetary asset to which the abused individual is entitled under any law or custom". In the event that the spouse wins cash and doesn't pay wife that is abusive behavior at home. In any case, if the spouse gains and does not pay the husband that is not on the grounds that, ladies don't have the duty to contribute fiscally to the family. This ought to be considered as abusive behavior at home against men.

5. Recommendations & Suggestions

"Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress"

- King Jr Martin Luther

V. Gender Neutral Domestic Violence Act- Need of the Hour

In India, there are or have been more than 3940 Acts in presence, extending from issues of national importance like psychological oppression to focus state relations and acts relating to cash trade, insurance of licensed innovation to acts which are of incomparable significance. Additionally those connected with assault, abusive behavior at home, sexual manhandle, have dependably been a bone of conflict for numerous reasons.

The arrangements for criminalization of assault in the Indian Penal Code, generally, allude to ladies and youngsters as the wronged and men as the culprits of such wrongdoings. A case of such a demonstration is the Domestic Violence Act, which holds ladies just like the deceived class and men as the victimizers, where "individual" is characterized as 'ladies'.

It is a fact that ladies experience such torment more than men do. But barring men from the ambit of such laws inside and out is not good. Favoring one sex makes this law extremely contract in its extension and approach. This approach is risky as it can be misused by females. On the one hand we talk about improvement and on the other, we decline to perceive the privileges of a vast extent of the population simply because they have the Y chromosome matching, rather than X.

This Act gives a wide extension to abuse where ladies frequently exploit such unbalanced arrangements and escape, while men, who might not have been wrongdoers, experience exploitation on account of the law. Truth be told, on May 9, a gathering of influenced men in the Telangana area embraced a battle for scratching off Section 498A, says a lot about the abuse of disproportionate laws.

⁴⁴⁹Almost Every Men Indian husband is subjected to Domestic Violence, THE MALE FACTOR, retrieved from <https://themalefactor.com/2014/02/18/almost-every-indian-husband-is-subjected-to-domestic-violence/> on 15th Oct, 2017.

⁴⁵⁰Jidan Kongari, Gender Neutrality and Legal Complexities in India, LEGAL INDIA (20th Oct, 2017) <http://www.legalindia.com/gender-neutrality-and-legal-complexities-in-india/>.

Lastly, however critically, it overlooks, not just men from the ambit of the exploited class but additionally the third sex also. The makers of this Act did not think that laws should treat all offenders of comparative violations similarly.

Apparently enough, all these unfavorable comments indicate the requirement for sexually impartial laws. It is the obligation of the State that every one of its natives are put on the same platform and are managed, in a comparative way. It is, similarly, the obligation of the state to see that each individual who experiences comparative torment or grievance is reviewed in a comparable way, independent of their sex.

An unbiased law would accumulate much regard, submission and backing instead of a disproportionate law. Instances of false surrounding and lied charges could be to a great extent discarded, as there would be no assumption of blame in law, as opposed to existing conditions and matters would be chosen exclusively on truths and law. Legitimacy would weaken the disgrace that exists in instances of male assault or manhandle. This would promote and prepare for dynamic enactments, say, for occasion, an impartial criminalization of conjugal assault. Every one of these components in this manner proposes the requirement for impartiality in laws in India.

Law is relied upon to be the gatekeeper of individuals in a state. Law is intended to guarantee, arrange and appropriate lead. Law must not separate among the individuals who have surrendered their rights to it and view it as the incomparable organization accused of the security of their rights in the state. Law must, in this manner, minus all potential limitations degree conceivable, be fair-minded and should think about every one of the natives and not a specific gender. It is just when the law ensures all and treats all similarly that it succeeds in its motivation.

VI. Conclusion

It is the need of hour that laws should be gender neutral, to bring equality and to protect the rights of the males, third sex gender and homosexuals. These days a regular conflict can be seen in the mode of the men's rights movement in India. It is the result of high rate of exploitation of female oriented laws. Some incidents are clearly evident from the conflict theory of sociology and of Karl Marx. It is an established fact that the Indian criminal justice system is suffering from the misuse of pro feminist laws like domestic violence law, 498 A, and male rape laws. Like USA, UK and European Union States, India also needs to have more gender neutral anti-harassment prevention laws.

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