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Gender Based Violence in India - A Never-ending Phenomenon

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Abstract

Religion, customs, age-old prejudices, etc. have put Indian women in a subservient and exploitable position in many domains of life. Low rates of participation in education, lack of economic independence, value biases operating against them, etc, have resulted in the women being dependent on men folk and other institutions of authority like the family, neighborhood and the society. They are usually ignorant of their rights and even if they are not, they do not have easy access to justice.

The issues related to women are being raised and discussed in various fora, in the recent times. Of these, 'violence against women' is gaining more and more support and recognition, the world over. But despite the enactment of laws, formulation of reformative legal processes, provision of legal aid to the needy, extensive use of the provision of Public Interest Litigation, conduct of Family Courts, Women/Family counseling centers etc., women in India have a long way to go in concretizing their Constitutional Goals into reality.

Key Words: Violence against women, women's empowerment, domestic violence

Introduction

Gender based violence is quite common in almost all the developing countries. Though mostly identical, yet, some of the customs, which are reflected in the culture of each of the particular societies differently, create important distinctions. The opponents to these customs have failed time and again to evoke the desired response despite the customs being reiterated again and again in many written works. In the present paper, some of the customs, prevalent for years in India, have been identified to reveal the gender-based violence in addition to the day to day harassment being faced by the women. Some recommendations that are always in the discussion at policy level but with no fruitful result have also been reviewed and an attempt has been made to put forward some simple suggestions to check gender-based violence, particularly, in the developing world.

It is a harsh reality that the woman in India has been ill-treated for ages in our male dominated society. She is deprived of her independent identity and is looked upon as a commodity. She is not only robbed of her dignity and pride by way of seduction by the men outside, but also, may become a victim of cruelty by her saviors, within the four walls of her own house. However, her trauma does not end here, it may even go up to the extent of forcing her to commit suicide or she may be burnt to death for various reasons including that of dowry. This type of violence transgresses the boundaries of caste, class, region or religion and is prevalent in almost all societies.

The atrocities committed on women can be divided into various groups: *Physical violence* may include assault, battery, serious injuries or burns etc. *Sexual violence*, which means robbing the dignity of woman not only by indecent behavior but it, may take the

extreme form of rape. Female genital mutilation (FGM) removal of clitoris and other parts of a woman or girl child is often practiced in African countries. *Verbal violence*, which means indecency or use of abusive and filthy language against a woman or her near and dear ones. *Social violence*, which includes demeaning, disparaging and humiliating a woman or her parental relatives and friends. *Emotional violence*, leading to internal deprivation of love and affection, concern, sympathy and care, it also includes depriving her custody of children. *Financial violence*, which means depriving her of financial means and bare necessities of daily life, it also includes taking away the assets, which a woman possesses or earns. *Intellectual violence*, means denial of rights to take part in decision making and discussion for pressing issues. *Other forms of violence*, which may include denial of education, access to health facilities, reproductive rights, etc. (Nigam 2002)

Global Scenario

Gender based violence that threatens the well being, rights and dignity of women has only recently emerged as a global issue extending across regional, social, cultural and economic boundaries. According to state statistics, about 18% of women are being sexually abused in the U.S. According to the UN Report on violence against women, the condition in other developed countries such as Denmark, Germany, Spain, Switzerland, and the United Kingdom etc. is no better. In the U.S., the Department of Justice reported that, every year; 3-4 million women are battered by their husbands or partners. Even in Sweden, which ranks high in the gender-related index, 66% of the 18650 reported cases of violence on women in 1996 were of domestic assault. Further 45% of 681 offences of homicide recorded in England and Wales in 1996 involved women killed by their spouses or lovers. (Joshi 2002)

The data from developing countries like Antigua, Barbados, Columbia, Chile, Ecuador, Guatemala, Sri Lanka and others reveals widespread prevalence of physical and sexual abuse on women. In a study of 796 women from Japan carried out by Domestic Violence Group (1993) 59% reported physical abuse, 66% emotional abuse and 60% reported sexual abuse. Studies from African countries, Kenya, Uganda and Tanzania reveal that 42% women are subjected to physical abuse at their homes. In China, a conclusive evidence of wife battering has been reported among 57% women. (Joshi 2002)

The Universal Declaration of Human Rights and Convention on Elimination of all forms of Discrimination against Women (CEDAW) do enforce certain special rights and privileges for women. But it is amazing that only 44 countries have laws against domestic violence. Only 17 countries have made marital rape a criminal offence & only 27 countries have passed laws on sexual harassment. (Amin 2002)

The Indian Scenario

The cherished womanhood, which has been extolled since long, had been eroded away with the influx of foreign and modern culture. Over the years, worldly pursuits have occupied maximized proportions because of which the traditional culture is withering away. The happiness and solace in the family have been snatched away by heart breaking acts like bride burning, dowry deaths, torture, cruelty and so forth. Even the female embryo is subjected to homicidal torture. The right of the female child is always staked to

peril. For having born as a female child itself is considered as a curse by some sections of the society. A look at the turn of century census reveals that there were 972 females per 1000 males in 1901 whereas the figure is 933 females per 1000 males in 2001. Still more significant is that in the 0 - 6 age group there are only 927 girls per 1000 boys. In some Indian states like Punjab the ratio is as low as 793 girls per 1000 boys. (Sharma 2001)

Placed on the wrong side of power and hierarchies, in their homes and work places, women, often face the brunt of violence. Records of the police provide details of reported cases of crime against women, but much of the violence goes unreported. In fact, women face violence at the hands of their protectors. The recorded data during the 90's (*Table 1*) reveals that crime against women in 1999 registered an increase of nearly 102% over the year 1989. In absolute terms an increase of 68699 cases was reported during the decade. The available data indicates an increasing trend during the last three years for cases registered under Indian Penal Code and under special laws such as Immoral Traffic (Prevention) Act and Indecent Representation of Women (Prevention) Act. Among the crimes against women, torture recorded as high as 278% increase, while the incidence of rape increased by 69% followed by molestation 24%. Sexual harassment recorded a consistent growth of 86% during the period 1995 to 1999.

There has been a steep rise in rape cases from 9150 in 1989 to 15468 in 1999 but the more disturbing feature of this finding is that 27% of the victims were minors (*Table 2*). The figures, in spite of the fact that sexual offences against children are one of the most under-reported crimes in the country, speak for themselves. It has been argued that for every case reported against children there are a hundred, which are not reported.

In 1997, the Supreme Court of India laid down five factors that qualify as sexual harassment. These are physical contact or advances, a demand or request for sexual favors, sexually colored remarks, showing pornography and other unwelcome physical, and verbal or non-verbal sexual conduct. Recently the Supreme Court has recorded its strong disapproval against the practice of doctors in government hospitals, especially in rural areas, not to examine rape victims unless the police forwarded the case to them. It has observed that this attitude of the doctors delays examination of the victim resulting in the evidence being either washed away or lost. (Satyasundaram 2002)

The phenomenon of violence against women within the family in India is complex and deeply embedded. In India, marriage establishes a network of interacting individuals, and is rarely only a highly personal relationship between a man and a woman. An important part of the power relationship between spouses and indeed their families relates to dowry and its ramifications (Sharma 2002a). According to National Crime Records Bureau report 1998 (*Table 3*), 2371 cases of suicides were related to dowry disputes. A study of dowry victims in Delhi reports that in a sample of 150 dowry victims, one fourth were murdered or driven to commit suicide and more than half (61%) were thrown out of their husband's house after a long drawn period of harassment and torture. The study, reports Dowry related killings, to follow two patterns, first, the young brides were either murdered or forced to commit suicide (18.4%) when their parents refused to concede to continuing demands of dowry and second, the murders were committed on the pretext of 'complex family relations' or extra-marital relations (52.6%). (Nigam 2002)

A critical analysis reveals that the crime situation has worsened over the years but the large number of cases that are registered may reflect that the hesitation regarding

reporting these crimes is perhaps breaking down. May be today more women are mustering up courage to report cases of crime against themselves and seeking redressal. However, studies indicate that the statistics conceal rather than reveal the extent of the problem. The All India crime rate i.e. number of crimes per 100,000 population for crimes against women reported to the police worked out to be 13.8 during 1999. The Crime in India Report 1999, itself acknowledges that this rate of crime may be reviewed with caution, as a sizeable number of crimes against women go unreported due to the social stigma attached and the lengthy court procedures. According to a report out of every 100 rape cases in India, only 10 are reported and out of every 100 reported cases only 5 offenders are convicted (Vasudev 2002). According to another report, in 1999, every day in India, 42 women were raped, 18 cases of dowry deaths occurred every hour, 5 women faced cruelty at home and 4 molestation cases were reported (Wiswanath 2002). According to yet another study, crimes against women increased from 123 to 127 cases per million persons, during the period 1998 to 1999, while total cognizable crime rate declined from 1837 to 1823 over the same period. (Philipose 2002)

Post independence period in India, has witnessed a marked increase in women literacy (*Table 4*), resulting into a vast number of women involved in the work place in all the vital sectors of the countries economy, whether out of choice or out of compulsion. However, they mostly fall in the unorganized sector, where they are ill paid but need to cling on to the jobs due to ever increasing unemployment. This need for survival drives women into what has been referred to as 'rape situations'. Harassment at work place is real and pervasive. Jokes with sexual undertones obscene behavior with sexual overtures, direct advances etc. combine to make the atmosphere at work place discriminatory to women.

The phenomenon of violence against women arises from patriarchal notions of ownership over women's bodies, sexuality, labor, reproductive rights, mobility and level of autonomy. Deep-rooted ideas about male superiority enable men to freely exercise unlimited power over women's lives and effectively legitimize it too. Violence is thus a tool that men use constantly to control women as a result of highly internalized patriarchal conditioning coupled with legitimacy for coercion to enforce compliance and increasing aspirations, frustrations and 'might is right' becoming a legitimate view and increasing need for assertion of individual egos and control. Within this context, several developments serve as a backdrop to the discussion and analysis of increased violence against women. In the wake of liberalization, new modes of living are being introduced. Consumerism, unreal aspirations incited by the barrage of the advertising industry and 'get rich quick' schemes have been increasingly influencing the thinking and behavior. An increasingly growing gap is being witnessed between the aspirations and their fulfillment, which is reflected in an increased violence in human interactions. (Sharma 2003, Sharma 2002 b, c and d)

The deluge of private companies into the electronic media has led to a spate of programs based on sex and violence. In the contemporary scenario almost all channels are running programs, which stress on bigamy or extramarital relationships. Advertisements use women's bodies to sell any thing ranging from cars to soap. A substantial population is being influenced by underlying philosophy of instant self-gratification, trying to actualize their sexual fantasies. Increasing contractualization and

casualization of the female work force as a part of liberalization policies has increased their vulnerability at the work place.

The status of girls in the labor market is different than the boys and they are considered to be more productive in the household activities. The deep rooted gender bias in the minds of people also leads to more female child labor. Lately the trend of teenaged commercial sex workers among girls has been reported to be on rise. According to a report, there are about 10 million commercially sexually exploited women in India, of which one fifth are under the age of 18 years. (Patnam 2002)

Wife battering is the commonest form of abuse worldwide irrespective of class, religion and community. Studies have correlated childhood abuse, alcoholism, unemployment and poverty with the growth of this malaise. In India, there is a tendency to club marital violence under the overall heads of dowry, dowry deaths and dowry violence. However, oppression of wives for bringing inadequate dowry may only be another excuse for using violence against them.

The problem of violence against women has to be visualized in a wider context and cannot be viewed in isolation from the status of women in the society. The practice among the Indian women of ending their lives by setting themselves ablaze with the pyre of their deceased husbands or being forced to do so, in the yesteryears - the "SATI PRATHA" though banned now, reflects the extent of dependence of women on their men. However, legislation alone cannot by itself solve deep-rooted social problems, one has to approach them in other ways too. Therefore, what is required is not only a strong legal support network but also opportunities for economic independence, essential education and awareness, alternative accommodation and a change in attitude and mindset of society, judiciary, legislature, executive, men and the most important woman herself. Restructuring society in terms of power and role relationship while emphasizing the egalitarian values is the need of the hour.

The Parliament of India has passed a bill proposing death penalty for convicted rapists, but the women organizations argue that this will be another pretext for courts to give the benefit of doubt to the accused. In this entire scenario, the women's organizations are indeed a strong platform. However, policy level reforms in response to gender based violence will be able to succeed only when such organizations are able to convince policy makers that responding to violence is both necessary and achievable.

Law can be ahead of public opinion in matters of social policy, but if the gulf is too wide, there is every likelihood of its non-observance either unconsciously or deliberately. This is tragically true of the Dowry Prohibition Law, which is flouted by one and all in the Indian Society, irrespective of their caste, creed and religion. Even the law enforcing agencies, believe it to be an ornamental legislation, not seriously intended for implementation. The offenders do not consider themselves guilty and the victims do not perceive the conduct immoral like in other offences. The prevailing evil of dowry system in this part of the world, despite the existing stringent laws (Sec. 498A, 304B Indian Penal Code) to curb the menace, has shown an upward trend. There has also been some feminist movement in the society and at present, one finds women's organizations struggling for their rights and protesting against the atrocities on them. For awakening of social conscience and providing justice and opportunity to the women, the following recommendations are often made:

- Promoting education among the general public is necessary to annul many myths and superstitions, which lead to helplessness and frustrations in them. Educating the society about the equal status of a girl child is the utmost requirement.
- Popularizing vocational courses, as per the caliber of the individuals, will go a long way in decreasing the insecurity of the unemployed, thereby boosting their self-confidence and will power.
- Marriage counseling, discouraging and banning costly and ostentatious marriage rituals, strict implementation of anti-dowry laws, may help in decreasing or preventing the tensions of day to day married life.
- Society should work towards protecting the rights of women. In this regard, effective cooperation between Non Government Organizations (NGOs), voluntary and law enforcing agencies, is a must to enable women to enjoy equal rights, instill confidence and self respect in them and to make them economically independent.
- Promotion of the concept of 'Family Planning' in rural India, so that its principles are followed in letter and in spirit, all over the country. Social health workers, NGOs, Govt. Organizations and the society as a whole should strive towards bringing down the family size and its related problems, both in the rural and in the urban community etc., etc.

But these remain limited to policy level only on account of the lack of political will and sincere efforts towards their implementation, consequently, the all-important goal of women empowerment continues to be a distant dream for the women in many developing countries including India.

The concept of women empowerment is not new and can be traced back from a story about King Arthur who was ambushed and imprisoned by the Monarch of a neighboring kingdom. The monarch could have killed him but was moved by Arthur's youthful happiness and offered him freedom if he could answer a difficult question within a specified period of one year. The question was "what do women really want?" Such a question would perplex even the most knowledgeable man, and, to young Arthur, it seemed an impossible query.

Since it was better than death, Arthur accepted the monarch's proposition to have an answer by year's end. He returned to his kingdom and sought the help of princesses, priests, the wise men, the court jesters and the prostitutes. No one could give him a satisfactory answer, but what most people did tell him was to consult the 'old witch'. The last month of the year arrived and Arthur had no alternative but to talk to the witch. She agreed to answer his question but he would have to accept her price first. The old witch wanted to marry Gawain, the most noble of the Knights of the Round Table and Arthur's closest friend. Young Arthur was horrified. She was hunchbacked and awfully hideous, had only one tooth, smelled like sewage water and often made obscene noises. He had never run across such a repugnant creature. Arthur refused to ask/force his friend to marry her and have to endure such a burden.

Gawain, upon learning of the proposal, spoke to Arthur. He told him that nothing was too big of a sacrifice compared to king's life that he had pledged to the monarch in the event of failing to give the right answer. Hence the wedding was announced and the witch answered Arthur's question: "What a woman really wants is to be able to be in charge of her own life." Everyone instantly knew that the witch had uttered a great truth and that Arthur's life would be spared. And so it went. The neighboring monarch spared

Arthur's life and granted him total freedom. The answer was not the end, but the beginning of a lovely and lucid story on women empowerment.

What a wedding Gawain and the witch had! Arthur was torn between relief and anguish. The old witch put her worst manners on display, ate with her hands, belched and made everyone uncomfortable. The wedding night approached. Gawain, steeling himself for a horrible night entered the bedroom. What a sight awaited! The most beautiful woman he had ever seen lay before him. The knight was astounded and asked what had happened. The beauty replied that since he had been so kind to her (when she'd been a witch) half the time she would be her horrible deformed self, and the other half, she would be her beautiful maiden self. Which would he want her to be during the day and which during the night? During the day a beautiful woman to show off to his friends, but at night, in the privacy of his home, an old spooky witch. Or would he prefer having by day a hideous witch, but by night a beautiful woman to enjoy many intimate moments.

What a cruel question! Gawain began to think of his predicament and then said that he would let her choose for herself. Upon hearing this, she announced that she would be beautiful all the time, because he had respected her and had let her be in charge of her own life. But really now what is the moral of this story? If you don't respect women, things are going to get ugly! What is required is 'public awareness, mass education, financial and social independence and the will to safeguard and fight for their rights' among the Indian women. But above all, Indian women need to remove a deep-rooted malady that has sapped the very roots of our so-called civilized society - disparity between a male and female child. We recommend the following corrective measures:

- Change in the perception of society towards the dignity of women treating them at par with their male counterparts, because threat to male authority is the main cause of domestic violence not only in the developing world but also the developed.
- Awareness about gender biases because violence against women is primarily a gender issue. Non Government Organizations and government agencies such as National Commission for women may play an important role in sensitizing the society about gender rights.
- Imparting legal education to the girls at high school or secondary school level, enabling them to fight for their rights.
- Educating the women about their rights as well as the agency to be approached in case of a particular problem, keeping in mind the present educational status of the majority of Indian women.
- Motivation of women from poor and backward families to utilize the schemes started by the government for their welfare in general and the economic empowerment in particular.
- Strict implementation of the legal provisions of the legislation, which are meant for the protection of women.
- Developing programs to make the women morally strong or empowered because, bestowing judicial rights or making women literate alone can never end the violence against them.
- Setting up Family Counseling Centers and ensuring their proper functioning with the objective to strengthen the families and not breaking them apart. They need to propagate the concept - "family is the prime unit of society" and provide a platform where men, women, old and young can share their problems and receive good

counseling. At present 500 voluntary organizations are running Family Counseling Centers all over the country with aid from the Central Social Welfare Board. (Sinha 2002)

- The electronic and the print media have already made a dent by bringing out the atrocities towards women in the open but they need to stress more.

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Table 2: Victims of rape by age groups

Year	Age in years				Total
	Below 10	10 to 16	16 to 30	Above 30	
1990	394	2105	6028	1541	10068
1991	1099	2630	5377	1319	10426
1992	532	2581	7000	1621	11734
1993	634	2759	7038	1792	12223
1994	734	3244	7442	1798	13218
1995	747	3220	7752	1955	13674
1996	608	3475	8281	2485	14849
1997	770	3644	8612	2310	15336
1998	626	3433	8414	2560	15033

Source: National Crime Records Bureau, 1996, 1998.

Table 3: Distribution of Suicides

Cause	Age up to 14 years			Age 15 to 29 years			Age 30 to 44 years		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Dowry dispute	2	14	16	29	1806	1835	43	551	594
Physical abuse	2	7	9	31	182	213	36	70	106
Self immolation	70	171	241	1149	4095	5244	1332	2506	3838

Source: Accidental Deaths and Suicides in India - 1998, NCRB

Table 4: Decadal variations in literacy rates in India

Census Year	Total	Males	Females
1951	18.3	27.2	09.0
1961	28.3	40.4	15.4
1971	34.5	46.0	22.0
1981	43.6	56.4	29.7
1991	52.2	64.1	39.3
2001	65.4	75.9	54.2

Source: Census of India 2001, Provisional Population Totals, Series - I, India Paper - I of 2001, New Delhi: Registrar General and Census Commissioner, India

Table 1: Incidence of violence against women

Category	Year												% Variation
	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999		
Rape	9150	9518	9793	11111	11242	12351	13754	14846	15330	15151	15468		-69
Kidnapping & Abduction	11673	11699	12300	12077	11837	12998	14063	14877	15617	16351	15962		-37
Dowry deaths	4215	4836	5157	4962	5817	4935	5092	5513	6006	6975	6699		-59
Cruelty at home	11603	13404	15949	19750	22064	25946	31127	35246	36592	41376	43823		+278
Molestation	20497	20194	20611	20385	20985	24117	28475	28939	30764	30959	32311		-58
Sexual harassment	9934	8620	10283	10751	12009	10496	4756	5671	5796	8034	8858		-11
Importation of girls	-	-	-	-	-	167	191	182	78	146	1		-99
Sati Prevention	-	-	-	-	-	2	27	0	1	0	0		-100
Immoral Trafficking	-	-	-	-	-	7547	8447	7706	8323	8695	9363		-24
Indecent Representation	-	-	-	-	-	389	539	96	73	190	222		-43
Dowry Harassment	-	-	-	-	-	-	-	2647	2685	3578	3064		-16
Total	67072	68317	74093	79037	83954	98948	106471	115723	121265	131338	135771		-102

Source: Crime in India, National Crime Records Bureau, 1992, 1995, 1998, and 1999.

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