



VIOLENCE AGAINST WOMEN: MEANING, CAUSES AND MEASURES TO PREVENT SUCH CAUSES

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Abstract

In India history of women has witnessed a subordination against man. India has a long list of malpractices which were continued for century and used to suppress the women as a weaker sex and responsible for violence against women. Violence against women is a complex and multi-dimensional phenomenon, and over the years, there have been a number of theoretical approaches that have attempted to explain this complexity. These complexities did give birth to need for reform in our legal system enactments of many legislations and special safeguards under Indian Constitution. Many legislations are still being enacted for their protection. A number of factors have been blamed for violence against women. An inefficient law enforcing machinery has often been targeted for the increasing number of cases being reported. This article is aimed at study of prominent factors which were or are responsible for maltreatment of women. A number of instances has been referred to depict the subjugation of women against women. Further many constitutional provisions and other legislative statutes have been dealt with which are related with violence against women. Further, this article has been concluded with unsatisfactory legal enforcing machinery for protecting

women against violence.

1. Introduction

“The best thermometer to the progress of a nation is its treatment of its women. There is no chance for the welfare of the world unless the condition of women is improved.” - Swami Vivekanand

WHO defines the term ‘violence’ as “The intentional use of physical force or power, threatened or actual, against oneself, and other person or against a group or community, that either results in or has a high likelihood of resulting in injury death, psychological harm, maldevelopment or deprivation.”¹ The use and meaning of violence is connected with power. It is broadly the case that in most societies, social, economic, political, and interpersonal power remains with men: power is socially gendered. In this context, violence is an expression of power, a means through which people seek control, and a gendered practice.² Violence is a relatively common type of human behaviour that occurs throughout the world. Any human being irrespective of his sex or age may be violent, although older adolescents and young adults are most likely to engage in violent behaviour. Violence has a number of negative effects on those who witness or experience it, and children are especially susceptible to its

¹ What is Violence ? available at:
<http://www.saferspaces.org.za/understanding/entry/what-is-violence> (Last visited on 04.09.2021)

² Violence against Women available at:
<https://oxfamilibrary.openrepository.com/bitstream/handle> (Last visited on 04.09.2021)



harm.³ But for the purpose of this article only that violence which are being practiced against women are subject matter of discussion. Then the next question arises as what is need to study the violence against women specifically? The answer is because women are facing more violence in the society in comparison with that of the male members of society. Besides that, there are particular heinous crimes which are being committed only against female. For example – rape, dowry death, female feticide etc.

2. Meaning of ‘Violence against Women’

The semantic meaning of ‘crime against women’ is direct or indirect physical or mental cruelty to women. The **United Nations defines** violence against women as “any act of gender-based violence that results in, or is likely to result in, **physical, sexual or mental harm** or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” Secondly it further states that “Violence against is a social , economic , developmental, legal ,educational , human right, and health (physical and mental) issue”.⁴ **United Nations Assembly Declaration on the Elimination of Violence against Women, in 1993** , defined violence against women as “any act of gender-based violence which results in, or is likely to result in, physical, sexual or physical harm or suffering to women

including threats or such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life.”⁵ Various kinds of violence against women are eve-teasing , molestation , bigamy, fraudulent marriage , adultery and enticement of married women, abduction and kidnapping , rape , harassment to women at working place , wife beating ,dowry death female child abuse and abuse of elderly female etc. Almost every woman has experienced the feeling of being mistreated, trivialized, kept out, put down, ignored, assaulted, laughed at or discriminated against because of her gender.

After going through these definitions and forms of violence, it is clear that the expression violence against women include both physical as well as psychological violence’s. And in cases of psychological offence, it is very difficult to find out that so and so person is facing psychological violence unless the victim consults any psychologist or otherwise. **For example** – In Indian society or in our social conditioning a rape survivor is made to feel that she has been subjected to rape and also that she herself would have been at fault and in such way, she is maltreated and agonized by the society. This is a psychological violence faced by rape survivor which causes her pain without inflicting any harm on her body. In this way violence against women does not mean only physical harm but also mental or psychological harm.

³ Violence available at: <http://www.britannica.com/topic/violence> (Last visited on 04.09.2021)

⁴ Violence against Women available at: <https://www.who.int/reproductivehealth/topics/violence> (Last visited on 06.09.2021)

⁵ Violence Against Women , An Issue of Gender available at: <https://www.nwci.ie/images/uploads> (Last visited on 06.09.2021)



Violence against women also economic violences for example – If a woman is subjected to acid attack, then her some body parts may be rendered dysfunctional and hence, she may not be able to perform her job as she could have been had she not been subjected to such attack. In this way violence on him may hamper her economic aspects as well.

Violence also includes maldevelopment of mental health – For example - If there is a girl child, she need a full-fledged mental development and for that a sound atmosphere is required but if that child is treated traumatically then such things may affect her mind adversely.

3. Contributing Factors towards Increasing Instances of Violence against Women

There are various contributing factors towards increasing instances of violence against women. Some of the main causes of violence against women are as follow –

i. Patriarchal Mindset and Gender Stereotypes –

A key feature of patriarchy is the notion of traditional gender roles. Traditional gender roles cast men as strong, decisive, rational and protective while women are seen as emotional, irrational, weak, nurturing and submissive.⁶ In such a gender stereotypes atmosphere females are made to feel that they are weaker than the men and they must live under male subjection.

Patriarchal societies propagate the

ideology of motherhood which restricts women's mobility and burdens them with the responsibilities to nurture and rear children. The biological factor to bear children is linked to the social position of women's responsibilities of motherhood: nurturing, educating and raising children by devoting themselves to family.⁷ And all these lead to the violence against women.

For example – At many places male think that the women of their family should wear the dresses in a manner that they want or in some societies male want that a female must say 'yes' in any decision of a male. In india many of acid attack cases are being committed only because a girl did not accept the proposal of a boy. Reason behind this is men could not handle the rejection from her side only because they think that they are superior in gender then how a girl could say 'no' to their proposal. An ancient practice of **Purdah Pratha** can also be a good example of such mindset.

ii. **Lack of Education** - The preference for boys in the family's education investment, the gendered division of household labor, and long distances to travel to school are only some of the structural barriers and discriminatory social norms that contribute to gender inequality in education. One of the main reasons for girls' low educational attainment is gender-based violence, and in particular sexual harassment and

⁶ Roles of Gender in Socialization in a Patriarchal Society available at:

<http://www.shodhganga.inflibnet.ac.in> (Last visited on 07.09.2021)

⁷ Ibid.



child marriage. It is, in fact, not a coincidence that the countries with the highest rates of child marriage are also among the countries with the highest gender disparities in secondary education enrollment.⁸ Low educational attainment is both the cause and the consequence of child marriage: girls with less access to education are more likely to marry early, and conversely, child marriage means the end of a girl's education. Child marriage not only has an impact on school dropout rates, but also entails a number of poor health and social outcomes such as maternal mortality, increased risks of HIV and domestic violence.⁹

- iii. **Dowry** - The dowry system is so deeply rooted in Indian culture, that sometimes one feels that there's going to be no way out - at least not for another century. 'Bride-burning', a term which is very common now a days is used to describe the increasing number of young Indian housewives found murdered each year, has become commonplace in young marriages. Brides bringing less than expected dowry are ill-treated by their in-laws and other relatives. Many of them cannot bear it anymore and

commit suicide. Those who do not have enough courage to do so, are burnt alive by their husbands and the in-laws. In spite of modernization and the increasing role of women in all walks of life, the practice of dowry in India is becoming widespread, and the value of dowries is increasing. If a bride's family fails to pay the amount of dowry demanded by the prospective groom's family, the bride will be cruelly treated by the in-laws and in many cases will be burnt to death.¹⁰

iv. **Traditional and Cultural Practices like Sati or Devdasi System** - Another important evil practice on women is the devdasi system. The status of women was further lowered by the introduction of the devdasi system. Originally the devdasis were young women attached to the temples to raise funds for the temples through musical and dance performances. In medieval period many parents used to offer their daughters to the temple priests during the times of hardship and famine.¹¹ Sati (also called suttee) is the practice among some Hindu communities by which a recently widowed woman either voluntarily or by use of force or coercion commits suicide as a result of her husband's death. The best-known

⁸ Education as a Vehicle to End Violence against Women available at :

<http://www.blog.worldnank.org> (Last visited on 07.09.2021)

⁹ Lack of education making women 'powerless' available at :

<https://www.theparliamentmagazine.eu/news/article/>

ack-of-education-making-women-powerless (Last visited on 07.09.2021)

¹⁰ Dr. Ishita Chatterjee by *Gender Justice and Feminist Jurisprudence*, Pg - 685 (Central Law Publication, 1st Edition)

¹¹ Violation Against Women and Remedies available at: <http://www.shodhganga.ac.in> (Last visited on 08.09.2021)



form of sati is when a woman burns to death on her husband's funeral pyre. However other forms of sati exist, including being buried alive with the husband's corpse and drowning.¹² So in sati system not only the identity or individuality of women was denied but she was forced to commit suicide in the name of custom.

v. **Insensitivity of Law Enforcing Machinery** - Women in India have

been let down by the very institutions that should protect them against crimes like rape, and it is not surprising that that the country is now known as the rape capital of the world. To the credit of the authorities, significant steps have been made in reviewing outmoded laws regarding violence against women. However, these statutes must be accompanied by the will and resources for implementation on the ground. While legal reforms must be upheld, especially to speed up and assure prosecution of offenders, even more urgent is to change the attitude of Indian men towards women.¹³

vi. **Financial Dependence** – Although a lot of awareness programmes has been spread for women employment in india. But still major fraction of women are still not engaged in any

employment and does their household activities. This leads towards their dependence upon male for financial assistance. Since a male assist a lady with money he never allow her to make any decision regarding financial planning. this also causes mental distress to a female.¹⁴

4. **Measures to Control the Instances of Violence against Women**

Women are facing various problems from the past. The history of suppression of women in india is very long and the same has been responsible for including certain general as well as specific provisions for upliftment of the status of women Various attempt have been made to meet out their problems. Some of legislative step taken towards eradication of their problem can be well explained in following way –

I. **Constitutional Safeguards for Women**

The Constitution of India confers a catena of rights upon women. Our revered constitution-makers were well aware of the subordinate and backward position of women in our society. They made conscious efforts for improving the condition of women. With regard to the women, the Constitution contains many negative and positive provisions which go a long way in securing gender justice. While incorporating these provisions, the framers of the Constitution were well conscious of

¹² The Practice of Sati (Widow-Burning) available at: <http://kashghar.com> (Last visited on 08.09.2021)

¹³ How Law Enforcement Fails India's Women available at: <http://thewire.in> (Last visited on 09.09.2021)

¹⁴ My money, my voice: The power of financial independence for women available at : <https://www.orfonline.org/expert-speak/my-money-voice-power-financial-independence-women> (Last visited on 09.09.2021)



the unequal treatment meted out to the fairer sex, from the time immemorial. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles.¹⁵

A. Preamble

The Preamble contains the essence of the Constitution and reflects the ideals and aims of the people. The Preamble starts by saying that **We**, the people of India, give to ourselves the Constitution. The source of the Constitution is thus traced to the people, i.e. men and women of India, irrespective of caste, community, religion or sex.¹⁶ The Preamble to the Constitution of India promises "to secure *to all* its citizens Justice-social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of 'status and of opportunity'; and to promote among them all; Fraternity - assuring the dignity of the individual and the unity of the Nation". To realise these goals parliament has taken certain steps. **For Example** – To secure the equal status of women or equal opportunity 33% reservation has been made in favour of females in the Lok Sabha and Vidhan Sabhas. Political empowerment of women has been brought by the 73rd and 74th Amendments which reserve seats for women in Gram Panchayats and Municipal bodies. **To secure the social justice**- Daughters have been made coparcener ,

they have been given equal rights in inheritance of the ancestral property etc.

B. Fundamental Rights

Article 14 of the constitution of India ensures to women the right to equality. Article 14 prohibits class legislation but permits reasonable classification if there is an intelligible differentia and there must be a nexus between such differentia and the object sought to be achieved by the statute. In case of **Air India v. Nargesh Mirza**¹⁷ The Supreme Court struck down the Air-India Regulations relating to retirement and the pregnancy bar on the services of air-hostesses as unconstitutional on the ground that the conditions laid down therein were entirely unreasonable and arbitrary. The impugned Regulation provided that an air hostess would retire from the service of the corporation upon attaining the age of 35 years or on marriage, if it took place within 4 years of service, or on first pregnancy, whichever occurred earlier. **Article 15(3)** specifically provides for affirmative and positive action in favor of women by empowering the state to make special provisions for them. It would be no violation of Article 15(1) if institutions are set up by the State exclusively for women or places reserved for them at public entertainments or in public conveyances. The reservations made for women in educational institutions and public employments are protected by Article 15(3)¹⁸. **Article 16** of the Constitution provides for equality of opportunity to all, in matters relating to

¹⁵ Role of Constitution in Women Empowerment available at: <https://www.hilarispublisher.com> (Last visited on 10.09.2021)

¹⁶ Women Empowerment: With Special Reference to Constitutional Provisions available at: <http://www.legalservicesindia.com> (Last Visited on 10.09.2021)

¹⁷ (1981) 4 SCC 335.

¹⁸ Legislative Measures to Prevent the Crime against Women available at : <https://shodhganga.inflibnet.ac.in> (Last Visited on 10.09.2021)



public employment or appointment to any office and specifically forbids discrimination inter-alia on the ground of sex. These articles are all justiciable and form on the basis of our legal Constitutional history.¹⁹

Article 21 provides for protection of life and personal liberty. In case **Madhu Kishwar v/s State of Bihar**²⁰ court has held Denial of right of succession to women of Scheduled Tribes amounts to deprivation of their right to livelihood under article 21. In **Vishaka v/s State of Rajasthan**²¹, the Supreme Court in the absence of legislation in the field of sexual harassment of working women at their place of work, formulated guidelines for their protection. The Court said- Gender equality includes protection from sexual harassment and right to work with dignity which is a universally recognized basic human right. **Article 23** prohibits trafficking in human beings and forced labour. Article 23 of the Constitution specifically prohibits traffic in human beings. Trafficking in human beings has been prevalent in India for a long time in the form of prostitution and selling and purchasing of human beings.

C. Directive Principles of State Policy

Article 38 requires the State to secure a social order in which justice social, economic and political for the promotion of welfare of the people. It requires the state to strive to eliminate inequalities in status, facilities and opportunities. It is clear that the intention of the makers of the Constitution was to ensure that equality would not be only of opportunity but in all respects. **Article 39** puts down the

principles of policy to be followed by the State which include that the State should direct its policy toward securing the right to an adequate, means of livelihood, that there is equal pay for equal work, that the health and strength of workers *men and women*, are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. **Article 42** requires the State to make provision for securing just and humane conditions of work and for *maternity relief*. **Article 46** requires the State to promote with special care the education and economic interest of the weaker sections of the citizen. It is clear that the objective is to strive towards a *gender justice in the society*.²²

D. Fundamental Duties

In part IV- A of the Constitution incorporated through 42nd Amendment Act, 1976. Our natural obligation to renounce practices derogatory to the dignity of women has been elevated to the status of fundamental duty by article 51A(e). The Equal Remuneration Act, 1976, Maternity Benefit Act, 1961, the Dowry Prohibition Act, 1961 and the Immoral Traffic (Prevention) Act, 1956 are some of the enactments which owe their existence to the above mentioned provisions of the Indian Constitution.²³

¹⁹ Article 16 of Constitution of India.

²⁰ (1196) 5 SCC 125.

²¹ AIR 1997 SC 3011.

²² Women's Right and Constitution of India available at: <https://www.amu.ac.in> (Last visited on 11.09.2021)

²³ *Ibid.*



II. Special Initiatives For Women²⁴

- A. **National Commission for Women:** In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.
- B. **Reservation for Women in Local Self-Government:** The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensuring one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.
- C. **The National Plan of Action for the Girl Child (1991-2000) :** The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.
- D. **National Policy for the Empowerment of Women, 2001:** The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

III. Other Statutes²⁵

- A. **Dowry Prohibition Act, 1961** – The main objective of this Act is to abolish giving and taking dowry at the time of marriage. The term dowry refers to a valuable property or thing, which is determined by the parties to a marriage for a marriage. The practice of dowry had produced very bad effects. Dowry system, dowry cases have not been reduced. Still this Act makes some effort in bringing social change. The above mentioned are the important legislations, which brought an upward trend in the status of women in India.
- B. **Hindu Widow Re-marriage Act, 1856** - In the traditions at Hindu society there was a ban on widow remarriage it was one of the most important evils from which women in the traditional Hindu society suffered a lot. This act allowed widow to remarry and section 5 of this Act ensured her to enjoy all the rights, which a married woman did.
- C. **Hindu Child Marriage Restraint Act, 1929** - The practice of child marriage was another social evil from which women in traditional Hindu society suffered a lot. Age at marriage for girls was 9 or 10 and after passing this act the minimum marriageable age of women was fixed to 15 years. Later this age was increased up to 18 years.

²⁴ Important Constitutional and Legal Provisions for Women in India available at: <http://mospi.nic.in> (Last visited on 11.09.2021)

²⁵ 14 Legal Rights Women in India should Know They Have available at :

<https://www.thestatesman.com/lifestyle/women-rights-14-legal-rights-women-in-india-should-know-they-have-1502657586.html> (Last visited on 11.09.2021)



D. The Hindu Women's Right to Property Act, 1937 - In the traditional society women had no property rights. In the eyes of law, she was a minor or ward. This act recognized a widow of a deceased person as a surviving personality with the same right as his in the joint property. Thus, through this Act women in the Hindu society received the property right to a limited extent.

Women of present society don't require to be known as Goddess Laxmi or Durga what they require only respect, protection and their rights.

5. Conclusion

After going through this article, it is clear that violences against women are being committed from the immemorial past and it has left an indelible impact on society, which is very difficult to be eradicated. From time to time, according to the circumstances, several steps have been taken for the safety and respect of women and this effort is still going on. But in view of the increasing crimes against women at present, it is clear that all the steps taken so far have not proved to be as effective as they should have been. The legislature, executive and judiciary, all the three organs of the government, must gearing up themselves against these crimes and they have to fight and take necessary initiatives against these offences. Beti Bachao Beti Padhao launched by PM Narendra Modi, The Safe City Delhi launched by Delhi Government, Mission Shakti launched by UP Government, Mukhyamantri Nari Shakti Yojana launched by Government of Bihar, Cyber Safe Women launched by Maharashtra Government etc are few examples of such initiatives. But what more material is these initiatives or laws must show their effect on ground reality and must not be only attraction of governmental schemes.