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GENDER EGALITARIANISM IN PROVISIONS RELATED TO DOMESTIC VIOLENCE: THE SEXIST PREJUDICE

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ABSTRACT

Domestic Violence has been recognised across the Globe as a form of violence that affects a person's life in every way – physically, mentally, emotionally and psychologically – and it is also recognised as a violation of basic human rights. Domestic violence is always debated with regard to women where “Man” is always considered as the executioner. However, in the recent times due to the socioeconomic changes, there had been a change in the family structure and domestic violence is not limited to women only. Men also fell as the victim of Domestic Violence often. Men generally do not report any kind of violence like these against them and are silent victims of the consequences. As the laws in our society favour women as victims of violence more than men. So, these hapless men do not get justice for their miserable condition in the family and society. This article attempts to investigate the extent of this problem and highlights its causes and effects. There is a need for gender-neutral laws for domestic violence.

Keywords: Domestic violence, men, women, gender-neutral.

INTRODUCTION

“Domestic Violence” the term which incorporates a good vary of violent acts committed by one spouse equivalent on the opposite. Typically, it is a sort of mistreatment and it not only includes physical harm but also threats and verbal, psychological, and sexual abuse and other statutory offences.

“Men” this might be the terribly very first thing which will be coming to our mind whenever we tend to hear “domestic violence” as men are typically viewed as the perpetrators and “women” as victims. It could also be true typically however not in every case. Men do report and asseverate spousal violence in private; however, they hardly report it in public. It’s critically necessary to grasp and scrutinize the issue of “Domestic violence against men” and conjointly the factors associated with it.

“More than 40% of the male are victims of domestic violence”¹

- (Report mentioned in theguardian.com)

We all have witnessed in the past few years what proportion a polemic topic of “Domestic violence” has been and obviously, everyone would be having some knowledge upon this subject as many of them would have witnessed domestic violence around. Yes, most folks have solely heard about domestic violence against women; as the reasons are obvious that society has been cruel against them however has anyone heard about domestic violence against men?

Affirmative, it is true that four-hundredth of victims of domestic violence are male and it’s not that tough to digest aside for some modern feminist. There don’t seem to be systematic records for domestic violence against men however in the line with some analysis and surveys done “98% of men are facing domestic violence” – Sarkar et-al. “Men” is a gender-biased word and so are the laws of domestic violence².

Domestic violence is a topic of concern and certain provisions have been made to ease that concern however those provisions have solely created in favour of women which in a way additionally violates the fundamental and elemental rights mentioned in our constitution.

1. theguardian.com
2. Sarkar survey

So, the serious question arises that albeit so many men are facing so much domestic violence, why aren't there any laws to shield the men?

This paper aims to investigate the current scenario of violence against men and detect the multiple reasons and effects of unresolved and underreported violence against them. It conjointly discusses the legal and socio-cultural issues regarding this and the preventive strategies that may be inexplicit to reduce the violence against men.

DOMESTIC VIOLENCE – MEANING

The manifestation of domestic abuse is necessary however it shall not be confined to an explicit section of society. “Domestic violence” can be simply understood from two words i.e. the word “domestic” which means that things associated with household, family and the word “violence” have several different meanings according to a different perspective of the various legalist. Great legalists like Robert and William chambers while making chambers dictionaries gave different perspectives of violence according to them whereas black’s law dictionary and several other legalists and theorists gave a certain different perspective of violence. In all the definition of violence cannot be decided by solely on one’s perspective therefore here are some of the perspective or definitions of some dictionaries on “violence”

Black's law dictionary defines violence as "Violence means unjust or unwarranted use of force usually accompanied by fury, vehemence or outrage, physical force unlawfully with the intent to harm"³

According to Chambers 21, Century Dictionary violence means - "(a) the state or quality of being violent, (b) violent behaviour do violence to someone and something, to harm them or it physically, to spoil or ruin them or it. (c) To distort their meaning or significance".⁴

Webster illustrated contemporary dictionary Encyclopaedic edition defines violence as, "physical force exercised to injure, damage, or destroy, an instance of such exercise of physical force, an injurious or destructive act, intensity, severity force.",

3. Black law’s dictionary

4. Chamber’s 21 century dictionary

5. Webster’s dictionary

According to Black's Law Dictionary 'Domestic violence' means, "Violence between members of a household usually spouses, an assault, or other violent act committed by one member of a household against another"⁶

U.N. General Assembly adopted a declaration in 1993 that defines domestic violence as, "Physical, sexual and psychological violence occurring in the family including battering, sexual abuse of female children in the household, dowry-related violence marital rape, female genital mutilation and other traditional practices harmful to women, men spousal violence and violence related to exploitation"⁷

The Government of India Bill-2002 defines domestic violence, under section 4(1) as, "Habitual assaults or (one that) makes the life of the aggrieved persons miserable by cruelty of conduct, forces the aggrieved person to lead an immoral life or otherwise injures or harms the aggrieved person."⁸

PREVALENCE

There is very scarce data available on domestic violence against men. Also, there is no proper scientific literature available on this topic.

According to the recent study, about 51.5% of males are victims of violence at the hands of their wives/intimate partners at least once in their lifetime and 10.5% in the last 12 months.⁹

According to the National Family Health Survey (2004), it has been found that about 1.8% or an estimated 60 lakh women have perpetrated physical violence against husbands without any provocation. However, men are more likely to be threatened and attacked by male relatives of the wife than the wife herself. The strange aspect however is, men are not asked if they are victims of domestic violence in these surveys.¹⁰

6. Black law's dictionary

7. U.N bill

8. Government of India Bill 2002

9. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/>

10. National Family Health Survey 2004

Also, in a study conducted by My Nation along with Save Family Foundation (Delhi) on domestic violence against men, between April 2005 and March 2006, 1,650 men were interviewed and their personal cases looked into. The study results showed that Indian women are the most abusive and dominating about 98% of the men had suffered domestic violence more than once in their lifetime. This study involves Indian Husbands from different backgrounds.¹¹

COMPARISON OF INDIA AND OTHER COUNTRIES

The prevalence of spouse/intimate partner violence (51.5%) within the latest Indian study was found to be more than data collected for violence under partner abuse state of data project (PASK) from the USA, Canada, and therefore the UK (19.3%).¹²

TYPES OF VIOLENCE

Domestic violence has been recognized across the world as a form of violence that affects a person's life in every way, physically, mentally, emotionally, and psychologically, and is a violation of basic human rights. In a recent study the most common spousal violence was found to be emotionally followed by physical violence.¹³

Physical Violence

This may include slapping; pushing; hitting my wife, her parents, or relatives; or throwing objects like slippers, utensils, cell phones, crockery, or any other object at the husband. In physical violence, slapping was identified as the most common form (98.3%) and the least common was beaten by weapon (3.3%). Every one in ten cases, physical assaults were severe.

11. Sarkar, S, Dsouza, R, Dasgupta, A. *Domestic Violence against Men: A Study Report by Save Family Foundation*. New Delhi: Save Family Foundation; 2007. Retrieved

12. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/>

13. A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/>

In India, most of the physical violence cases are not reported but we could get to see some of them in “MMS” being circulated across social networking sites. physical violence against men can be visible mostly in women dominated families or the families where the husband’s salary is lower than the wife or the consideration amount given by the opposite family is huge. It’s all crystal clear that only those families are happy where everything is done equally by everyone but wherever a person is contributing more, chaos does occur. So, it can be interpreted that physical violence can be also done against men not only women

Psychological Violence

In emotional violence, reported 85% abuse against the men includes criticism of them, 29.7% were insulted in front of others like friends, colleagues’, and 3.5% were threatened or hurt. It may be within the style of mental abuse like constant threats to the husband and his family under false allegations of dowry and violence. It is an era of freedom, where a person is allowed to freely express themselves but crosses the level when a family member also starts abusing you. So many divorces occur due to domestic violence, some of them are due to emotional abuse also. There may be some instances where a woman is emotionally abused but many provisions are already made to curb that issue. But if we think about the mental and emotional abuse against men, where a woman alleges false rape case or torture men, there are no certain laws to curb them. Men do have feelings. This might also be the reason where some “Men” tend to cheat their women. This is all because they may not be happy in their personal lives or they may be getting happiness somewhere else.

Sexual Abuse

This can happen if the husband denies having sex. According to a study by Malik and Nadda¹, only 0.4% of men had experienced sexual abuse. Sexual abuse in India is low as compared to other types of domestic violence. But still, 0.4% are facing sexual abuse which also a topic of concern. This raises a question in everyone’s mind that “are real women a kind of sexual predator who hasn’t been studied yet? Well, there may be some cases where women in order to do fulfill her work may have tortured men with sexual abuse.

14. Malik, JS, Nadda, A. A cross-sectional study of gender-based violence against men in the rural area of Haryana, India. Indian J Commu Med. 2019;44(1):35.

Overall, it is a serious concern that there are no such laws or provisions which protect “men” from any kind of sexual abuse like the above.

DOMESTIC VIOLENCE SURVIVORS

I couldn't handle it anymore” These were the words of a domestic violence survivor. Domestic violence has been a social quandary, be it against women or men. There is an instance when some could survive through it, but there is some instance when the person couldn't handle it anymore and either leaves the partner (ultimately divorce) or dies (suicide). Out of 1500 complaints of domestic violence, 100 cases are of suicide due to it. Although this data majorly consists of data related to women this has been the same scenario in the case of “men”.

Former stuntman of James Bond series “Eddie Kidd” faced domestic violence from the hands of his wife “Samantha”. In a British newspaper, he said that his wife started drinking alcohol in a hefty amount and after getting drunk she would beat and strangle him. Although Eddie got justice under the ground of domestic violence by the wife in India the “men” are not able to get justice because in India no certain laws to protect them from domestic violence nor the society or the Indian courts are ready to accept the fact that “domestic violence against men” could also happen.¹⁵

27-year-old Sonu Sharma¹⁷ was one of the victims of domestic abuse as he narrated his story on one of the online platforms along with him many other men also narrated their story on an online platform. He says things went from bad to worse for him on 7 January 2017, when his six-month-old baby accidentally fell off the bed. *“My six-month-old baby fell off the bed and was bleeding from his mouth and nose. I told my wife that we have to rush him to a hospital, but she said that she can't, it's my baby and I should take him and that she wants to return to her parents. She called her family, told them that I had hit her and asked them to come pick her up,”* he said. After that, the woman's family members got some goons and started misbehaving with Sharma's family, he alleged. *“While I was taking my baby to the hospital,*

15. <https://www.dailymail.co.uk/>

16. www.quint.com

her family members came and snatched the baby from me. They then held me and thrashed me.” he added.

Another man named Akbar Ali from Haryana alleged that he was asked to pay Rs 20 lakh to see his three-year-old daughter. *“In the third month of marriage, my wife went to her parents' house for Eid and did not return. She then called me to tell me that her parents have put her under house arrest and asked me to pick her up. When I reached there, they threw me out of the house. I moved the court and the court issued a warrant summoning her family and her to the court. But she lied in the court that I used to hit her and that is why she returned to her parents' house,”* Ali said. *“I have a 3-year-old daughter. But in three years I have lived with her for just one year. They said that if I give Rs 20 lakh, I can take my daughter with me. She threatened me that if I don't, she will not settle the divorce and make my life hell.”* Ali last saw his daughter in April, 2019.¹⁷

WHEN POLICE NEGLECTS THE CASE

Most parents of women blame the son-in-law for the breakdown of the marriage or divorce, without knowing the fact that their daughter is abusive or she has serious anger management issues. They somehow think that their daughter can never be wrong and expect the son-in-law to tolerate her actions. They get violent at son-in-law to teach him a lesson or seek revenge. Police rarely register any complaints by the husband about the violence he is suffering, claiming that this is a family issue. They also refuse to provide any protection to the men.

Lokesh Yadav¹⁸, 33-year-old, narrated a story. He was married on 14 November 2017.

“I was told that the girl is fully educated. I realised within two weeks of marriage that she had failed class 9. When I confronted her father about this, he told me it was a very small thing and I was blowing it out of proportion,” he said.

“She then started telling the entire community that I hit her and abuse her, which I never did. She threatened that she will lodge a false case against all my relatives who had come to the wedding. Moreover, she alleged that we had taken 21 lakh as dowry, which I never did,” said a teary eyed Yadav. *“I went to file a complaint with the police; the police said that I must*

be the one hitting my wife and harassing her. The policeman took me to a corner and asked me if I would stay with her or not. He slapped me, threatened me and said I will stay with her or else.”

Just like in the above incident stated it can be seen how society sees “men” as. Even though the police is himself a man because he is not aware of the situations in which domestic violence against men is a literal problem, he is behaving according to the societal norms and not taking any kind of serious actions. The police moreover provoked the man to be a “mard” and do domestic violence. All the officials should understand the sensitivity of the social quandary like “domestic violence” be it against anyone, the officials, as well as the society, should not be gender-biased.

GENDER BIASNESS – A VIEW

Gender biasness is basically a type of preference that any gender gives to a particular gender over another. It is a kind of prejudice towards one gender. This view of gender biasness of society needs a serious change.

So many laws and provisions are made to demolish discrimination upon the basis of gender or any other kind of discrimination but still, we can see it. Gender biases will keep on prevailing until everyone understands their roles and start living in harmony, In ancient times there were biases against women and that was due to cultures but nowadays the society being so modern and yet equipped with some of the cultures have started doing gender biases against men or any gender except women.

While considering the provisions made for women it can be noted that if any kind of violence or abuse is witnessed against them, strict actions are taken against the accused and those actions are so strict that sometimes the police do not hear to the other genders’ side. Almost all cases are it fake or real fall in the favour of women and this is due to the strong provision made for the protection of the rights of the women and the inability of the men providing certain evidence. There have been some cases where women sue the men for fake

case of domestic violence and that is due to extort some kind of money or due to rivalry. The provisions of domestic violence are so asymmetrical that they have been falling in the favour of women and the does not view “men” as victim. Although this is not the case. Approx. 1 out of 9 men faces physical violence according to NDAV. Though there is no such studies or record for domestic violence but certain research and questionnaire (Sarkar)⁵ approx. 98% of men in India suffer due to domestic violence. If so, many people have been victims of domestic violence the obvious question that will be coming to mind will be that why not the men are coming up for justice and are silent. That’s just because society has only one perspective of the word “men” and i.e. they are masculine and have no certain emotions and are believed to be strong be it in a circumstance.

The Indian Penal Code Amendment in 1983: A special section, numbered 498A, that officially made domestic violence a criminal offence was added to the Indian Penal Code in 1983. The section of the law specifically covers cruelty towards married women by their husbands or their husband’s families.

The question arises where the equality quotient of constitution had gone?

The 2005 Protection of Women from Domestic Violence Act: It gives a specific definition of Domestic Violence actual or threats of physical, mental, emotional, sexual, or verbal abuse as well as harassment regarding dowry or property. It gives a women’s right to reside in their “matrimonial household”, she cannot be evicted from her the house as she rightfully shares it with her husband. Violators of this law will either be mandated to compensate the women financially or will be served a restraining order to keep them away from the complainant.

In ancient times domestic violence was considered as the corrective measures taken by the men (husbands) against women (wives) so that they can be in demeanor but while looking it nowadays the same domestic violence has been posed as a major problem. Due to this ancient thinking, the “domestic violence” topic has always viewed “men” as the perpetrator and women as the victim. Because of such disparity women have suffered through a lot. But since the literacy rate improved and as the women started knowing about the rights and the dignity which they have to live they started a movement of “women empowerment” and all the feminist

leaders started raising awareness to all women all around the world about their rights and dignity which ultimately led to a societal change and we can witness that change. It seems like all the rage and revenge is being taken by the women's society as all the laws and provisions taken out to protect them are so strict that they give no chance to the abuser to justify himself. With the enforcement of such strict laws and so much sympathy, “women” have shown so much empowerment in the society that everyone started neglecting either part of the society.

With changing of norms, amendment of provisions for domestic violence against women Change in women's power, position and status along with education women are powerful more than ever and this has led to misuse of their power in some ways as the issue of “domestic violence” is still the problem in the society. But this time the perpetrators are not “men” moreover they are the victims now.

“Gurvinder, a 37-year-old, has come forward and said he was blackmailed while his wife was having an affair”¹⁹

Gurivinder is one of few “men” who have come forward and expressed the domestic violence done to them by their women. Well, there are many more “men” like him but they don’t come forward and express themselves as “men” are overlooked only from one perspective and that is their masculinity. Just like its being said nowadays that women should not be overlooked through only one perspective of “softness” similarly like this “men” also should not be overlooked as from one perspective of “hardness” “mard”. The saying “mard ko dard nahi hota” is rubbish as there are no men who don’t feel pain. If a woman kicks in the crotches of men or beats them, that’s but obvious that the man will get hurt. But rather than thinking logically about the rights of men, our society is more inclined towards “women” and their rights and dignity leaving aside so much “men” to suffer.

Be it anyone saying “it doesn’t matter what society thinks” but in the end, we do almost everything according to norms of society and that’s because, in the end, the opinion of society does matter. Though the thinking of society has slightly inclined towards the empowerment of women, which in a way is good. Similarly, men being a part of society, view themselves as the

same as what everyone wants them to be and that is “masculine”. Thus, due to various reasons, men never enroll themselves in domestic violence topics and those reasons could be:

- 1. Embarrassment** – the male part of society often thinks that society would view them as a loose masculine character if they tell the society about the domestic violence being done against them. “Shame” or “embarrassment” is one of the most obvious reasons that men are not able to report such incidents. These parts of society try to conceal such issues as it views them as “non dominant”.
- 2. Family pressure** - whenever a “man” faces domestic violence it is obvious that if he will speak out, the dignity and respect of his family come into question and in order to save it, family for obvious reasons pressurize him and let him live with it. Thus, the family does want to show the society that they have a powerless man
- 3. Fake charges** - as discussed above that how much our society is inclined towards protecting women so many strict provisions are made in which either side is not heard and our lawmakers have definitely failed to make any escape laws so that the innocent can be freed. Moreover, we know we can see how a woman nowadays threatened a man so putting him inside the lockup for some fake charges.
- 4. Our asymmetrical law** - we all know how strict the provisions for the protection of the rights of women are, almost every provision is inclined in protecting the “women”. Thus, there is desperate need of laws which give men certain rights so that there could be some balance.

EFFECTS OF DOMESTIC VIOLENCE AGAINST MEN

Any violence affects life physically, mentally, emotionally, and psychologically. It is also a violation of basic human rights as mentioned in the Constitution of India. Unreported and unnoticed violence against men may lead to denial in accepting the family, divorce,

depression, or suicide in extreme cases. It has been recorded that suicides are more in married men as compared to separated/unmarried men. According to WHO (2002), women think more about committing suicide, whereas more men die by suicide. This is also known as the gender paradox in society.

According to WHO, 20 exposures to violence can increase the risk of smoking, alcoholism, and drug abuse; mental illness; chronic diseases such as heart disease, diabetes, and cancer; infectious diseases such as HIV and social problems such as crime.

If inadequate attention is given, it may lead to prolonged habits of alcoholism, increased homosexuality, stress, frustration, suicide, and the like.

GENDER NEUTRAL DOMESTIC VIOLENCE ACT- NEED OF THE HOUR

In India, there are or have been more than 4000 Acts in presence, extending from issues of national importance like psychological oppression to focus state relations and acts relating to trade, insurance of licensed innovation to acts which are of incomparable significance. Moreover, those connected with assault, abusive behaviour at home, sexual manhandle, have dependably been a bone of conflict for numerous reasons.

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. Favouring 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.

In cases where men are falsely accused of violence or dowry or any other incident, a law that can address all these false allegations is the need of the hour. Human rights and gender

equality should include both men and women, not only one gender. Domestic violence should be considered as spousal violence and must not be differentiated due to gender.

Domestic violence act in India is only for women. Studies and surveys clearly show that men are also the victims of violence at the hand of women or their spouses. Hence, necessary amendments addressing violence against men are suggested. It is not necessary that a separate act should be made for violence against men the need of the hour only suggests adding relevant provisions addressing violence against men to the exiting acts/provisions.

Law is regarded to be the gatekeeper of individuals in a state. Law is intended to guarantee, arrange and appropriate lead. Law should not separate the individuals as men or women 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 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 and equally then it succeeds in its objective.

CONCLUSION

Society and its power relations, norms, and values are changing along with that family structure is also changing. Men are also physically and mentally harassed by their spouses and they have started sharing their agony, torture, and harassment by women/spouses. Hence, is time to recognize their problem as a social and public health issue and develop appropriate strategies and interventions. They are no longer stronger than women now the theory of ‘Mard ko dardnahihota’ is no longer prevalent. They too need help in crisis and family violence, especially violence by spouses. Male victims of violence can be saved/helped through appropriate intervention such as recognition of violence against men by women as a public health issue; helpline for the male victims of violence; and education, awareness, and legal safeguards. Both men and women are the pillars of society and a family. Hence, the law must provide protection to both of them from spousal violenc