

# GENDER DISCRIMINATION: A CRITICAL ANALYSIS IN MODERN ERA

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## ABSTRACT

The status of the women in the country like India is subjected to many great changes over the past few millennia. From an equal status with men in the ancient times through the low points of the medieval period, to the promotion of equal rights by many well-known reformers, the history of the women of India has been very eventful. In the modern India, women have held high offices and powerful posts including that of the President of India, Prime Minister of India, Speaker of the Lok Sabha and Leader of the Opposition parties. However, women in India continue to face various atrocities such as the rape, acid throwing, dowry deaths, and the forced prostitution of young girls against their wills. Our ancient traditions such as Sati, Jauhar, and Devadasi prevailed among some communities have been banned totally now and are largely defunct in the modern India. However, some instances of these mal-practices are still prevailing found in remote parts of our country. Child marriage still found common in the rural areas, although it is illegal and unlawful under the current Indian laws.

**Keywords:** *Status of women, Equal rights, Modern India, Dowry deaths, Jauhar, Devadasi, Child marriage.*

## INTRODUCTION

The condition or status of women in India has always remained as a matter of grave concern. From the past several centuries, the women in our country were never given equal status as well as full opportunities as compared to their male counterparts. The patriarchal nature and structure of Indian society, which always gives respect to women as they are our mothers and sisters, has largely affected both the independence as well as the safety of women in the country. Women of our country continue to face violence from righty from the womb to the tomb. While in womb they have to face the ever-looming threat of female foeticide and just after their birth, they are subjected to the various forms of violence and harassment against them at different points of their lives, at the hands of different actors, ranging from their parents to their husbands or the members of general public or their employers.

This state of such affairs exists even when the country has already adopted the Constitution of India which guarantees to all Indian women for their equality under the Article 14, no discrimination by the State against them under Article 15(1), equality of opportunities to them under the Article 16, and also equal pay for equal work under the Article 39(d). In addition to it, the Constitution of India allows special provisions to be made by the governments of states as well in favour of women and children under the article Article 15(3), also renounces practices of derogatory to the dignity of women under the Article 51(A) (e), and also to allow for provisions to be made by the governments of states for securing just and humane conditions for work and for maternity relief under the Article 42.

Despite of all such constitutional and legal measures, there is lot of atrocities and injustices pertaining in our country. It will not be wrong to consider as an irony that a country in which religious and cultural traditions keep women in high esteem, and women are religiously and purely worshiped in the form of various deities, atrocities against them are still on the rise. According to a study conducted in 1992-93, only 9.2% of the households in our country were headed by females of those families also nearly approximately 35% of the households which are below the poverty line were found to be headed by the females.

On an average every single day in our country single women, young girls, mothers and women from all walks of the life are being assaulted, molested, and violated. The streets and roads, means of public transports, public spaces during dark have become the hub of the hunters.

While the ones which are already hunted down, they weep in the silence and the rest of others fight their way to a basic life with full of dignity. There remains always an unspoken war on the streets or roads. Young school and college going girls have to use their books to shield themselves, while other women cover themselves fully by wearing full attire to protect their bodies, and the others avoid the mere glance of the roving gaze.

There is no requirement to look at statistics to confront the horrid truth. News stories related to commitment of crimes against women from all over India being raped, beaten, killed are flashed across the day after day and we all are aware of it completely. The fatal Nirbhaya gang-rape incident saw a massive crowd outpouring on the streets of Delhi for the protests decrying the fragile status of women in India. Candle light marches, editorials examining the patriarchal and sexist traditions of our India, an awakening on social media even conversations on streets revolve around the night they cannot forget: the night that took Nirbhaya.

Before discussing with into the various dimensions of crimes related to women and their causes thereof, let us first trace a brief history of Women's movement of our country.

## **BACKGROUND HISTORY**

### ***Movement related to women's welfare and security:***

Feminist activism in India gained great recognition in the late 1970s. It would not be wrong to say that one of the first national level issues that brought all women's groups together was the Mathura gang rape case. The acquittal of policemen who were accused for raping a young girl in a police station itself led to country-wide protests in 1979-1980. The protests which were widely covered by the national media have forced the central government to amend the various laws in Evidence Act, the Criminal Procedure Code, and the Indian Penal Code; and thus, resulted in creation of a new offence, named custodial rape. Many female activists also united over issues such as female infanticide, gender bias, women's health, women's safety, and women's literacy in the country. Since the act of alcoholism is very much associated with different forms of violence against women in our country. Many women groups launched campaigns against sale and consumption of alcohol in various states like Uttar Pradesh, Andhra Pradesh, Himachal Pradesh, Haryana, Odisha, Madhya Pradesh and other states. Many Muslim

women in our country have questioned about the fundamental leaders' interpretation of women's rights under the Shariat law and the same have criticized the triple talaq system also.

In the late 1990s, grants from various foreign donor agencies enabled the very formation of new women-oriented non-governmental organisations. Self-help groups and non-governmental organisations such as Self-Employed Women's Association (SEWA) have played a crucial role for the advancement of women's rights in our country. Many women in our country have emerged as the effective leaders of local movements, for instance Medha Patkar of the famous Narmada Bachao Andolan. The Government of India declared the year of 2001 as the Year of Women's Empowerment as Swashakti. Also, the National Policy for the Empowerment of Women in India was launched in the year 2001. Under the scope of this scheme various policies and programmes were launched for the empowerment of women in India. Also, in late under this scheme, the ongoing policies related to women empowerment are also merged for the better coordination. Despite of all these facts and situations, there is an unspoken truth for women in India that women of our country are subjected to lot of hardships always. Perhaps, the biggest crime against humanity is perpetrated always against women regarding threatening their safety and security.

Let us discuss some the two major forms of crimes against women.

## **DOMESTIC VIOLENCE**

Domestic violence or sometimes also called as intimate partner violence (IPV) is not only limited to our country but it is a worldwide problem. Extensive cultural practices and household stress factors contribute largely to the prevalence of domestic violence and it has been debated that these factors need to be deeply addressed through proper channels as the institutionalization of routine screening for warning signs of domestic violence by persons practicing in health professions or in legislation along with feasible mechanisms for enforcement and support along with the empowerment stemming from women's groups in the country.

Domestic violence in our country is endemic. Approximately 70% of women in our country are considered as victims of domestic violence which is also confirmed by a former Union

minister of Ministry of Women and Child Development. All this occur despite the fact that women in our country are legally protected from all kinds of domestic abuse under the statute namely Protection of Women from Domestic Violence Act, but there are still various types of domestic violence exist and some of them are discussed here.

***Various Forms of Domestic Violence:***

- (a) **Physical injury:** It is the most common and visible form of domestic violence. The scope of physical domestic or intimate partner violence includes physical cruelties like slapping, pushing, kicking, biting, hitting, throwing objects, strangling, beating, threatening with any kind of weapon, or using a weapon for giving physical and bodily injuries. Physical bodily injuries as a result of domestic violence against women are more obvious than psychological ones, and can be easily observable and more easily analysed by the all health professionals as well as the courts of law in reference to the context of legal prosecution.
- (b) **Emotional abuse:** It is having more and more recognition in recent years as an incredibly common form of the domestic violence and because of which it is also a human rights abuse within the private home throughout developing nations like India. Psychological abuses easily erase the woman's sense of self-worth and sometimes it can be tremendously harmful to overall mental and physical wellbeing of that woman. Emotional or psychological abuse remains present in mental harassment, life threats, verbal abuse, degradation and blaming to some, stalking to someone and isolation of someone. Nowadays because of the strict laws are present for domestic violence related to the physical bodily injuries, so women are witnessing this form as the fastest emerging abuse against themselves.
- (c) **Sexual assault:** It is one of the other common forms of the domestic violence. Sexual violence may include a range of forceful and non-forceful acts consisting unwanted kissing, touching, or fondling, sexual or reproductive coercion, rape, and marital rape. Abuse is found to be most common form of violence to do among men who also have extramarital affairs, and among those who have sexual transmitted disease symptoms. Abusive sexual behaviours are also found to be in correlation with an elevated rate of unplanned and unwanted pregnancies. In the year of 2013, the hon'ble high court in Mumbai ruled that depriving a woman of sex is also a form of cruelty.

***Effects of Domestic Violence:***

Women suffer from a lot of physical and emotional abuses and as a result of which illegal actions taken by their male counterparts against them within the private home, and those helpless women who have experienced any some form of domestic violence have greater tendency to experience long-term mental trauma disorders and drug dependencies as compared to those who do not. In country like India, reducing the domestic violence is imperative not only from the view of an ethical and human rights perspective but also because of the obvious instrumental and immediate health benefits that will be provided from such reduction. In more definite terms, following are some of the adverse effects of various forms of domestic violence:

- (a) Women who are used to experience any form of domestic violence on a regular basis tend to develop greater overall emotional distress as well as disturbingly high occurrences of life ending suicidal thoughts and attempting or committing of the same. According to a recent report on the basis of its study by the National Centre for Biotechnology Information, attempts to commit to end her life in India are in correlation with physical and psychological intimate partner violence.
- (b) Serious and complicated health problems usually result from various forms of abuses related to physical, emotional, and sexual forms of domestic violence. Physical adverse health outcomes include the various injuries which vary from lacerations to fractures and internal organs injuries, unwanted and immature pregnancies, other gynaecological problems, miscarriage, etc. severe mental health effects can include depression, fear, anxiety, low self-esteem, sexual dysfunction, etc. Fatal affects results in severe health problems like suicide, homicide, maternal mortality, etc.
- (c) Negative public health adverse consequences are also largely correlated with the domestic violence. Social and economic costs are recognised as straight forward results of such public-health consequences and it is also debated that these justify state action to act in the interest for the betterment of the public to reconcile these costs particularly consisting costs such as worker earnings and productivity, public healthcare, and costs related with the criminal justice system.

The unlawful and heinous acts related to the commitment of domestic violence towards women are human rights violation as well as an illegal act under Indian law. That is why, it is broadly considered a threat to women's agency through any dimension and there is a growing

recognition in many Indian parts that the nation can achieve a higher potential through obtaining greater social and economic capital instead of reducing women's participation in society. Commitment of the acts of domestic violence is one of the most significant determinants of this denial. Greater gender equality through greater women's agency cannot be achieved if basic health needs and criteria are not being met and if cultural biases that allow for domestic violence in India persist.

***Different Causes of Domestic Violence:***

Just as domestic violence is a multifaceted problem in our country, there are various causes for the same are listed below:

- (a) Domestic violence frequently occurs in India as a clear result of dowry demands. There are strong connections between domestic violence and dowry, an old cultural practice deeply rooted in many Indian communities particularly of rural India which is in terms of money, goods, or property. The woman/woman's family brings to a marriage is considered to now become under the ownership of the husband and his family. There is a negative correlation found between dowry amount and inter-spousal violence, reflecting the potential dangers to the wife falling short on dowry payments or expectations. These potential dangers are not limited only to common physical and emotional abuse such as hitting and continual degradation, but in some cases, it gets to such extent which results in the dowry death and bride burning as a result of the husband's dissatisfaction with the dowry payment and therefore commitment of cruelties.
- (b) There are basically three main aspects of the patriarchal society and household structure in our country that affect women's agency: marriage, active discrimination on various grounds by means of abuse either it is marital or extramarital, and diminishing women's agency by limited economic opportunity through stifled opportunity for their independence and wide exposure. In all these aspects, there is a clear-cut relationship is shown between strong patriarchal familial structures and limited capabilities and agency for women, which are strongly correlated with the usual factors for domestic violence such as gender disparities in nutritional deprivation and a lack of women's role in reproductive decisions and educations also.

- (c) There is too much hesitation and fear among most of the Indian women who experience any form of domestic violence to report to concerned authorities or to initiate prosecution against such crimes and one of the major reason for this reluctance is the patriarchal structure that is the framework of the vast majority of households in India and the misconception pertaining in minds that it is almost always the woman's fault for provoking domestic abuse and as a result of which such abuse occurs. The results of this hesitation to report cases is clear in that reported data overwhelmingly tends to underestimate actual prevalence of occurrences of domestic violence against the women in the country.
- (d) Domestic violence is usually not handled as a legitimate crime or complaint, but is considered to be more of a private or family matter. One person's caste and class, his religious biasness and race and also the factors which determine that whether which action is to be taken or not. The other pushing factors which are largely responsible for domestic violence include socio-economic class, educational and literacy level, and family structure beyond the patriarchal out frame.

***Preventive Measures for tackling Domestic Violence:***

**Protection of Women from Domestic Violence Act, 2005:** The Domestic Violence Act of the year 2005 provides victims of the domestic violence and abuse with a means for practical remedy through prosecution. Domestic violence is presently defined in our country under the Section 3 of this Act. The present Act prescribes strict punishment for the accused of domestic violence. However, the Domestic Violence Act of 2005 has also been reportedly used against men in some cases, else wise the vast majority of the domestic violence cases involve abuse to the women. The Delhi High Court through one of its judgment that the Act can also be used to prosecute women.

Despite this act and other related active laws in force, most of the women continue to suffer domestic violence in silence due to the reason and thinking that the women in our country are expected to idealize their character of holy Sita and Savitri. Though, there is no harm in it but when it comes to unnecessary subjugation and crime against women, they have to take upon themselves to raise their voice against their respect. However, in some of the cases where women are taking the mantle, the Indian judicial system has failed them. On the top of that,



there are some other crimes which are still not covered under any scope of any Indian laws, like the marital rape.

Domestic violence is not the only practice of crimes which are always faced by women while some of the others are discussed in it.

## **WOMEN AT WORKPLACES**

Women contributing in workforce earning remunerations or a salary have become part of a modern phenomenon, one that developed with the similar period as the growth of paid employment for men, but women are still challenged by inequality in the workplace and until the modern times, legal and cultural practices, combined with the inertia of longstanding religious and educational conventions which restricted women's entry, participation and contribution in the workforce.

However, in our country over the past three decades, the workplaces have become a much more diverse and complex environment. Women who are representing 24.4 per cent of the total workforce in our country, for them their personal security has become central to their physical, intellectual, emotional, economic and spiritual well-being.

Violence against women at their work places takes place in all countries throughout the world and takes places in various forms, including sexual harassment and bullying of female workmen by their male professionals and workers. It negatively affects all occupations and working sectors and specifically women living in poverty as they are more likely to be subjected to exploitation or harassment and abuse in informal labour settings for instance, women migrant workers. Small surveys in our country indicate that approximately 30 to 40 per cent of women workers report some form of harassment against themselves which are verbal, physical or sexual in nature.

Workplace violence against women should be understood as acts related to sexual and physical assault, life threatening behaviour, bullying, verbal abuse, and different forms of harassments. Workplace violence often occurs in a workplace setting; however, it can also occur outside of the work setting. Violence can be perpetrated by their colleague or supervisor, a client or a

customer. When sex gender is incorporated in assessment of workplace violence, important issues emerge and which include:

- Women feel it difficult to label their experiences as violence and harassment;
- Women are usually over-represented in aspects like low paid, low status and precarious jobs;
- Occupational health and safety research are usually viewed women's work as safe work;
- Men are more likely to be considered as the perpetrators of violence against women at their workplace.

### ***The impacts and costs of workplace violence***

The adverse consequences related to workplace violence and harassment for women which resulted in leaving their jobs, developing psychological mental disorders, witnessing relationship breakdowns and emerging substance abuse problems. Extra costs to industry consist costs which associated with workforce turnover, absenteeism, reduced efficiency, decline in work quality, early retirement costs, counselling program costs, mediation or grievance proceedings, and anti-discrimination action.

### ***Why violence against women at their workplace violence is so prevalent?***

Despite such widespread occurrence related to workplace harassment and violence against women. Generally, it is observed that women who are victims of such violence and harassments do not report the matter to the concerned authorities and as a result of which the perpetrators do not face any credible deterrence from anyone. Even our country also witnessed the allegations of sexual assault even against the members of higher judiciary in India at the apex level. There are plenty of reasons due to which women do not report workplace violence and some of them are listed as:

- Many a times, it has been noted that women see violence as a 'normal' part of the workplace, it is unavoidable and there is nothing that can be done about it as it is a part of work culture;
- They exactly don't know what to do about such incidences;

- They can be easily silenced by their experience of workplace violence as it is seen as integrally related with the shame associated with other types of men's violence against women at workplaces;
- Some women also develop fear that they will be fired from their jobs if they report violence;
- Some women have lack faith in the justice system, often believing the violence is already known to and condoned by managers; and
- Some develop fear that the idea and process for reporting is fully traumatic.
- Many a times, workplaces simply do not have effective mechanisms for addressing violence like the anti-sexual harassment cell.

### *Providing safe environment and preventing measures for violence against women in the workplace*

Apart from the harassment and violence faced by women at the workplaces, there are other aspects of safety at the workplace. Referring to this context, the guidelines regarding the safety for women at the workplace can be broadly categorized under the following four heads:

- (a) **Physical:** This concentrates on the physical security of women employees in an organization, institution and workplaces. It analyses the safety of female workers during the time when they are on their job or work inside office premises and the workplace should be secured and women assured about their basic safety on the job and in office.
- (b) **Environmental:** The environmental aspect focuses for the physical aspect of security and helps in maintaining a safe and secure standard in any premise. This plays a vital role for the purpose of ensuring the basic yet critical aspects of safety of workers.
- (c) **Organizational:** It is the legal duty as well as responsibility of the employer to create a positive atmosphere at the workplace for the female staff where a woman is encouraged to come and to perform her work, securing the knowledge that she will be treated with full dignity, respect and will be protected from any kind of harassment positively.

- (d) **Educational:** There should be presence of excessive awareness in women employees about their company policies on sexual harassment and gender discrimination because as more they are supported to report all instances of discrimination without fear, the greater would be their feeling of security and empowerment at the workplaces.

***The sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013:***

Prevention of Sexual Harassment of Women at Workplace is a legislative act in India with intention to protect women from the ongoing cases of sexual harassment at their workplaces. It was passed by the Indian Parliament in the year 2013. The present statute formed on the basis of the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India. The law contains the various mandatory legal requirements that any workplace with having than ten number of employees need to implement it compulsorily. This act also contains the other strict measures against the employers who fail to comply with its provisions negligently.

However, it was previously reported by the International Labour Organization in a study conducted by the ILO in the year of 2014 that very few Indian employers were compliant to this statute. In particular terms, over 90% of businesses running in our country are unable to comply with the new law completely. Even as employee awareness campaigns and training workshops are in pending stage in companies either big or small while there is sudden increase in number of reported harassment cases. Thus, there are implementation gaps with must be filled as early as possible.

## **SUGGESTIVE RECOMMENDATIONS**

- (a) Both societal norms for behaviour and the built environment affect a woman's safety in public spaces. Knowledge of issues related to women might begin to make a shift in the way women are treated and respected in the society. A crucial step is this regard is required to generate more awareness about women's safety issues in public spaces.

- (b) The behaviour and attitudes of the society cannot be transformed overnight, but the built environment can be controlled and can be used as a medium for change. As a beginning we can start with creating favourable urban infrastructure, like proper lighting on the public places, safe and secure urban transportation, installing CCTV cameras at places thought to be prone to sexual violence etc.
- (c) Setting up of women crime dedicated courts (Fast Track Courts) for trying cases of violence against women. These courts can be mandated to finalise the case within a stipulated time period.
- (d) Setting up of all women police stations and recruiting of more policewomen may act as a game changer. However, there is a lot of instances where members of women police force were themselves harassed, raped or even murdered so, there is greater need for reforming and sensitizing the police system as such.
- (e) Further research study needs to be done while engaging various community organizations, municipal authorities, police departments and other important stakeholders. Workshops and conferences need to be organized also, future women's safety audits need to be designed and led by community members as more as possible. This would help in forming crucial links between the community and decision-making organizations.
- (f) Instead of traditional past practices of history, now we have to focus more on scenario building modern techniques for example, transport planners need to have a good and clear city vision, they need to think about how the quality of life in a city which would be affected by a particular choice of transportation. The choices made will go a long way in determining people's behaviour and lifestyles. To do this, planners will need to assess the impact their decisions will make on safety, socio-economic benefits to the different users' groups and environmental aspects.
- (g) The Ministry of Urban Development has issued the new guidelines to all states governments for installing of the various preventive security apparatus in all modes of public transport like buses, taxis and auto rickshaws for safe travel of women and children. For an instance, Delhi government has deployed Marshalls in the DTC buses for the safe and secure travelling of women.
- (h) There are state governments which have developed and implemented a far better model for public transport which can be replicated by other states:

- G-Auto model of Ahmedabad: Under this model all auto-rickshaws of the city are managed through a common control centre to offer safe and secure service along with reliability to commuters especially to women.
- Pink Auto initiative by the Government of Odisha: The pink autos drivers have to go under a strict psychological test, criminal background check and training. With a big question mark on women's safety in India, this seems like a feasible solution. The Odisha government came with a better idea for securing the public transportation of the state for women.

## CONCLUSION AND ANALYSIS

The daily reporting in the various news platforms whether it is print media or electronic media and the available data is clearly speaking about the ground zero reality for itself. And it is very sure that every day women are dealing with various kinds of harassments and violence from mild level to extreme level on streets or roads, workplaces, public transportation, and even in our homes also. How long will such menace go on for? What are we supposed to react upon such situations and to do about it? With having the limited options and controls in our hands and with time fast flying us by, the burden is on us to wake up and do whatever we can. As per the official records, approximately 50% of registered voters in our country are women, the power of whom together needs to demand a tougher India, yet an India that is sensitive to women. Women related issues need to be highlighted and addressed in every possible lobby until the political leaders have no other choice left with them but to yield and take a hold on the crisis that reflects across every street and every corner of India today.

Unlike the cases of sexual and physical molestation are being registered in police stations, but still there is a large portion of women in India who are subjected to rape and other forms of sexual assault on a daily basis and their cases go unnoticed as no one is bothering for them. These women are none but from own Indian society as the unfortunate wives who have to indulge in sexual intercourse with their husbands even if they don't want to (non-consensual sex is nothing but an act of rape). Another category of such women who are bound to indulge in sexual activities against their wishes are the hundreds or thousands of sex workers in our country with tag of prostitute – woman's flash to sexually satisfy men who are visited by

numerous men everyday and even tortured by many of their clients. They are compelled or subjected to do all this as their clients say as they have no other means of feeding themselves and their children other than selling their flesh to the lusty and sex greedy men present in the society. If we take account of all these women and then collectively observe the scenario of sexual crimes against women, it can be easily observed that stringent laws alone cannot bring too much change.

This is the exact time that we should own up to ourselves. We should stand by each other with proud, brave and unfazed. This is the time we own up to our golden country India. No more harassment and violence of any type should be tolerated against any woman. We want what we deserve - for us and for our daughters – a safer country India for women. Strong and stringent laws are definitely necessary as the existing laws have proved to be inefficient in ensuring swift justice and appropriate punishment to the guilty. But the actual need of the hour is a revolutionary change in the mindsets and conscience of Indian men so that they stop seeing women as an object for satisfying their purposes.