
Psychological Abuse against Women and Judicial Relief in the Context of the Subcontinent

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Abstract

Domestic violence leading to psychological or emotional abuse against women has become a pressing issue of global concern we must address ourselves to. The prevalent laws against it do not cover the cases of mental tortures on women. The present paper has sprung from this growing realization and is premised upon treating women as victims of domestic violence in general and of psychological abuse in particular in the context of the subcontinent. The piece seeks to explore the form of women persecution known as emotional or psychological abuse which, though often occurs, cannot be much in evidence and therefore be legally remedied. It also aims to identify the nature of psychological abuse against women, show the inadequacies of the related laws and prescribe legal remedy to or judicious relief from it. The subject has been analysed both from regional and global perspectives and the feminist point of view to situate the discourse in the vaster interdisciplinary academic domain of Gender Studies. The study, based mostly on the qualitative analysis of the sources, arrives at the conclusion that there remains a serious dearth of specific laws against psychological torture on women in the subcontinent which we should address ourselves to in right earnest and the key to doing it is to make genuine attempts to empower women not to pass the buck. Since the author of the paper hails from Bangladesh, most of the primary observations are derived from Bangladeshi evidences.

Keywords: Domestic Violence, Intimate Partner Violence (IPV), Violence against Women (WAW), Psychological Abuse, Judicial Relief.

1.0 Introduction

Pages of history are full of examples of violence perpetrated against women. It has originated from, among other things, the social status of women determined by the male-dominated society. Though prehistoric communities bear witness to women in the ascendancy, this was gradually

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in eclipse, primarily due to the motherhood penalty. However, with the society's being in the state of flux, men seized control over women and decided their fates. Customs, laws and rituals were shaped and reshaped subordinating women. The process of subordination reaches such an extent that women no longer existed in the society as an independent entity. They have been reduced to 'a man-made myth'.² In answer to what a woman means, one replies that the woman is a womb. The tendency to treat a complete woman as a particular organ is primitive. The Book of Genesis too conceded the idea that the woman is created from a supernumerary bone of the man... Eve was created for the sexual gratification of Adam. Saint Thomas Aquinas declared the woman as an 'imperfect man' and an 'incidental being'. Aristotle informed that women are created through the lack of certain qualities. Plato thanked God for not having created him as a woman.... In historic Roman law, women rights have been confined to referring to the stupidities and instabilities of women... In Vatsayana's *Kama Sutra*, women have been compared to edible commodities³ These long-borne socio-political and religious-cultural dogmas and stereotypes have been instrumental in making women subordinate to men and exposed and vulnerable to numerous physical and mental abuses over the centuries.

A comparatively recent version of domestic violence has gained wide currency as 'Intimate Partner Violence' (IPV) which manifests itself in different forms of physical, verbal, psychological and sexual abuse mostly perpetrated by men against women. However, the reverse of it is not practically non-existent in human societies, but it appears to be the exception that proves the rule. Violence against women (VAW) has been framed by the global community as a manifestation of gender subordination in the Vienna Declaration of the World Conference on Human Rights and therefore remains a matter of concern to the human rights activists.

Given the gravity of the situation the subject of psychological abuse against women has become a very important discourse in the arena of Gender Studies. Lots of studies have been done on the subject of domestic violence and its remedies, and major reforms have been brought about in the legal system. But the delicate problem of psychological abuse against women and the judicial relief from it still remains to be addressed in earnest. It has been absolutely imperative especially in the developing countries of the subcontinent to look for the judicial remedy for mental torture on women in order to allow them to equally participate in the

² Rashid Askari, *The Wounded Land* (Pathak Samabesh 2010) 84.

³ *ibid*

activities of achieving the sustainable development goals through the alleviation of gender differences.

2.0 Women's Vulnerability to Abuse

'Being a woman is a terribly difficult task, since it consists principally in dealing with men', — says the great Polish-British writer Joseph Conrad in his autobiographical memoir 'The Mirror of the Sea'. He has theorized about women's vulnerability to suffering in the male-dominated society where 'one is not born, but rather becomes, a woman'.⁴ In her groundbreaking book called 'The Second Sex', the female existentialist philosopher Simone De Beauvoir tries to postulate that the notion of women in the society is not inherent in women themselves; rather it is brought about by societal and physiological conditioning. As she puts it:

Man defines woman not in herself but as relative to him; she is not regarded as an autonomous being . . . she is the incidental, the inessential as opposed to the essential. Man is the Subject, he is the Absolute —she is the Other...⁵

The first black American Congresswoman Shirley Chisholm declares great misfortune in women's life by saying that 'the emotional, sexual, and psychological stereotyping of females begins when the doctor says, 'It's a girl''.⁶ These are the harsh realities of women life in the patriarchal society. From the cradle to the grave, women are left exposed and vulnerable to numerous physical and psychological problems which have not much legal cure even in this age of human rights.

3.0 Women Empowerment: The Other Side of It

With the rise of human rights awareness and feminist movements across the globe, the overall condition of women tended upward movements. The empowerment of women is at the top of the national, regional and global agenda. All governments have adopted policies on women empowerment, and are trying to bring about radical changes in the social and legal status of women by implementing the policies. In the '1990s and 2000s, pressure from feminist movements and allies succeeded in pushing scores of states

⁴ Simon de Beauvoir, *The Second Sex* (Constance Borde and Sheila Malovany-Chevallier trs, Vintage Books 2011) 283.

⁵ Simone de Beauvoir, *The Second Sex* (Knopf 1953) xviii.

⁶ Karen Weekes, *Women Know Everything: 3,241 Quips, Quotes & Brilliant Remarks* (Quirk Books 2007) 168.

to reform their laws to prevent and punish violence against women (VAW).⁷ All this however does not live up to expectations. The overall condition of the women in the sub-continent—Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka remains unchanged due to the long-borne rigid cultures and discriminatory attitudes towards women. They are still prey to numerous physical and mental tortures from individual to community levels.

[T]he high incidence of female infanticide in India, the frequent incidence of culture-specific types of violence like honor killings, acid attacks, and stove burnings in Pakistan and Bangladesh, trafficking of women from Nepal, Sri-Lanka and India to other regions of world, forced into prostitution and other forms of sexual violence, as well as the high prevalence of domestic violence in all countries of the region, all constitute examples of violence against women in this region.⁸

4.0 The Double Fragility of Rural Women

The condition of the women in the villages is way far worse. They are doubly fragile—first for being women and second for being village women. They are the sitting ducks to the male hunters. The shattering blow to their womanhood first comes in the guise of dowry. Although a penal offence, the dowry system is still rampant in the subcontinent. In Arabic it is referred to as *Dahez* and in some parts of India it is called *Aaunnpot*. However, ‘the dowry system leads to crime against women, ranging from emotional abuse and injury to even deaths’.⁹ Dowry has reduced the status of daughters to a liability while the sons are treated as assets. The parents feel relieved of their liabilities by marrying them off for dowry though. The full payment of this dowry sometimes takes longer time or the venal husbands grow greedier for more. Both cases lead to tortures on the women that range from psychological abuse to actual bodily harm. In the rural Bangladesh, we see ‘how insolvent wives are routinely abused and beaten by dowry-hungry husbands. The beating sometimes stays suspended, but mental torture keeps continuing. The bruises on the body caused by beating disappear in course of time, but the marks of mental sufferings are everlasting and more excruciating’.¹⁰ The village women grin and bear it. They cannot protest because they have to live with their tormentors under the same roof. The US journalist Evelyn

⁷ Mala Htun and Francesca R. Jensenius, ‘Fighting Violence Against Women: Laws, Norms & Challenges Ahead’ (Winter 2020) 149(1) *Daedalus* 144.

⁸ Claudia García-Moreno and Anita Riecher-Rössler (ed) *Key Issues in Mental Health*, vol 178 (2013) 38 – 53.

⁹ Bedprakas Syam Roy, *India’s Journey Towards Sustainable Population* (Springer 2017) 70.

¹⁰ Askari (n 2) 104.

Cunningham precisely puts it: ‘Women are the only oppressed group in our society that lives in intimate association with their oppressors’.¹¹

5.0 Psychological Abuse Leading to Fatalities

How long can flesh and blood endure these years of mental torments? They sometimes give up completely, and seek refuge in suicide. Rural subcontinent is an area with a high incidence of suicide in women resulting from prolonged psychological torture perpetrated by their male intimate partners. Although men are the indirect cause for these abnormal deaths, the long arm of law cannot touch even a hair of their head for lack of direct evidence. They however, shed crocodile tears to the deceased’s near ones, but do not forget to wear the wedding crown again even before the funeral rites are properly observed. This time the rate of dowry is lower than before but it is there. They are the male and therefore ‘the golden ring, which is better even if curved’.¹² This is a cultural and gender stereotype embedded in our societies and in here are rooted the seeds of all forms of Intimate Partner Violence. The society is always forgiving of men’s behaviour towards women and therefore the ‘curved rings’ are always privileged to gain the upper hand. The author Raine Eisler agrees, ‘For the most recorded history...men’s violence against wives was explicitly or implicitly condoned’.¹³

6.0 Limitation of the Law

If any physical violence is meted out to a woman in the society, our legal system at least takes cognizance of it. The World Bank’s *Women, Business, and the Law* statistics show that most countries in the world have taken some action on domestic violence. But cases of mental violence are still outside of the province of the prevalent law. There is no direct legal management as such to impose effective sanctions against the mental tormentors. The victims of psychological abuse cannot justifiably bare their soul to the law-enforcers and thereby get legal cure. If anyone tries for legal justice indirectly, they could not provide sufficient evidence of psychological abuse. Therefore, the blind law does not see their cries lost through lack of evidence. Finally, they come back home with empty hands and sore hearts. The torture multiplies, and justice cries in the wilderness.

¹¹ Weekes (n 6) 352.

¹² Askari (n 2) 104.

¹³ Michele A. Paludi and Florence L. Denmark (eds), *Victims of Sexual Assault and Abuse - Resources and Responses for Individuals and Families*, vol 2 (Praeger 2010) xviii.

7.0 Protecting Women against IPV

But how long will this continue? How long will the silent cries of the hapless victims of mental persecution go unheeded? The buck stops here. It is time to take it into serious account. Women constitute the half of our total population and take equal part in the overall development of the country. How can we expect a perfectly developed nation without a proportionately empowered woman population? Napoleon Bonaparte shows women development as an essential prerequisite for national development (Give me an educated good mother and I will give you an educated nation). A strong advocate for women education Abigail Smith Adams, the first Second Lady and the second First Lady of the United States in a letter to her husband John Adams written on the eve of American independence said, 'If we mean to have heroes, statesmen, and philosophers we should have learned women'.¹⁴ The former UN Secretary General Kofi Annan echoes the same view in his 2003 International Women Day message, 'When women thrive, all of the society benefits and succeeding generations are given a better start in life'. So, there is no room for underrating women's role in social development.

8.0 Criminalizing Psychological Abuse and the Strictest Enforcement of Law

To guard against all forms of IPV laws should be made, altered, and implemented in keeping with the needs of time. However, the creation of law is not enough in itself to ensure its effectiveness. The real judicial relief depends on how precisely a law corresponds to the offence and how effectively it is enforced. Through the lack of specificity of law and its proper implementation, people are not fully enjoying judicial relief in many respects. Thus, if people cannot have any means within the law to get legal cure or if there is no specific law on some social irregularities, what would they expect from judicature? Improper implementation of law makes things bad but the absence of law makes them worse. Psychological abuse on women in the subcontinent is such an issue with no specific and effective laws about it, and hence the victims are the worst sufferers. It is however time for the issue to be addressed in earnest. Circles relating to our law-making and enforcing processes have got to play a key role in this regard. The international human rights activists are also of the opinion that South Asian women need more legal protection from intimate partner violence. A UN report titled '*In Pursuit of Justice*'

¹⁴ Sara Martin, 'We Should Have Learned Women' *The Beehive* (Massachusetts Historical Society 3 July 2019) <www.masshist.org/bee hiveblog/2019/07/we-should-have-learned-women/> accessed 20 July 2020.

says that ‘only four countries of South Asia —Bangladesh, India, Nepal and Sri Lanka— have specific laws specifically prohibiting domestic violence.’¹⁵ But no specific laws on the protection of women against psychological abuse are seen anywhere. Besides, reported Achin, ‘even where laws exist...lack of awareness, poverty, and social stigma often prevent women from accessing legal help’.¹⁶

This is way, laws relating to the trial of women oppression should be enforced fairly and squarely. The government, the lawmakers and the members of the civil society should come up with the introduction of specific laws against mental torture on women. That is also not going to be the panacea for the psychological abuse issue. As a matter of fact, the problem is deeply rooted in the very culture of the community. So there should also be efforts to change the mindset of the present generation. American author and activist Charlotte Bunch agrees, ‘Sexual, racial, gender violence and other forms of discrimination and violence in a culture cannot be eliminated without changing culture’.¹⁷

9.0 Conclusion: Women Empowerment through Self-Reliance

Empowerment of women can alleviate the problems of all forms of Intimate Partner Violence— physical and psychological. The Daedalus research also concludes with the findings that ‘empowered women are the key to ending gender and sexual violence’.¹⁸ So women should not move around their male counterparts as their satellites being granted the status of ‘the second/weaker/fair sex’. They should learn to stand on their own feet. And most importantly, they should identify their real enemies and wage fight to preserve their dignity. Identifying the real enemies is half the battle. An eminent contemporary feminist Betty Friedan rightly points out, ‘Men are not the enemy, but the fellow victims. The real enemy is women’s denigration of themselves’.¹⁹ Friedan also shows the way to emancipation. To quote: ‘The only way for a woman, as for a man, is to find herself, to know herself as a person, is by creative work of her own. There is no other way’.²⁰

¹⁵ Kurt Achin, ‘UN Report: South Asian Women Need More Domestic Violence Protection’ *Voice of America* (East Asia Pacific, 06 July 2011) <www.voanews.com/east-asia/un-report-south-asian-women-need-more-domestic-violence-protection> accessed 21 July 2020.

¹⁶ ibid

¹⁷ Paludi and Denmark (n 13) 125.

¹⁸ Htun and Jensenius (n 7) 156

¹⁹ Abdur Rahim, *Love Unfolded: A Deconstruction of Relationship, Marriage and Sex in Past and Present Time* (Friesen Press 2019) 60.

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²⁰ Patricia L. Munhall and Virginia Macken Fitzsimons, *The Emergence of Family Into the 21st Century* (Jones & Bartlett Learning 2001) 11.