

Research Article

Religions Stand for Protection not for Domestic Violence

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Abstract. A woman whether she is married or unmarried seems to be the lesser child of God because the domestic violence (which is attributed usually to the in-laws) starts even before she comes into the world as at times a foetus that carries a female is either aborted or if the girl-child is born, she is killed. It's a proven fact even in the 21st century that in many families, girls are attended to after the boys have been cared for. Woman is the foundation of a family, gives birth to a new life, nurtures and shapes it, preserves and transmits culture from generation to generation; the irony is that she is subjected to domestic violence irrespective of her age, race, and caste, social, economic and political status. Her vulnerability in various forms is the common phenomenon in the Indian society. Her silent sufferings are making her an easy prey to the male domination which is supported by the patriarchal

society that we live in. Almost every home in India must be suffering from some kind of domestic violence where women either as a daughter, daughter in law or as a wife are abused physically, mentally, verbally or even economically. If she speaks up then she is labelled as disobedient and rude. Though theoretically men and women have equal rights but still a woman is discriminated and this at times makes her unable to understand her own right and freedoms. Thus domestic violence not only hampers women but it's also a hindrance to a country's growth. This paper deals with the menace of domestic violence and how the different religions deal with this problem as at the end it's not just about the laws but also about the morals.

Keywords: Domestic Violence, UDHR, ICCPR, violence and religion

INTRODUCTION

Violence against Women is an old concept that doesn't remain confined to any caste/class/creed/race. Usually, it is a despotic mechanism of imposing ones will over another in order to establish ones authority. It is of various types beginning before birth till death in the forms of sex-selective abortions; infanticide; systematic denial of rights; restriction on choices in the field of education, health, movement, marriage; marital violence of different types and old age violence. This violence has had impact on woman in every way possible be it her health, her family and children and in turn an impact on overall development. Still such incidences are rampant throughout the world. Initially women led rather insecure lives in all societies of the world as all the ancient legal systems approved the right of husbands to discipline their wives even forcibly. Women were entirely dependent on men and their lives were connected with the male member of their families. They did not have any political rights because they were kept secluded and confined within their households having fixed roles.

Domestic Violence in the International Arena

The UN Secretary General says:

"Violence against women and girls is not confined to any particular political or economic system, but it is prevalent in every society in the world. It cuts across boundaries of wealth, race and culture. It is an expression of historically and culturally specific values and standards which are today still executed through many social and political institutions that foster women's subservience and discrimination against women and girls. International and regional legal instruments have clarified the obligations of States to prevent, eradicate and punish violence against women and girls"[1].

Domestic violence is recognised in International law as a violation of human rights. Although earlier international treaties only provided protection against domestic violence implicitly, in the 1990's domestic violence began to receive more explicit attention with the passage of the General Comment no.19 by the Committee

on the Elimination of Discrimination against Women (1992) and the Declaration of Elimination of Violence against Women (1993). The past two decades have also seen numerous resolutions from the UN General Assembly on Violence against Women, including one that specifically addressed domestic violence. Although early human rights law enacted by the United Nations did not specially mention violence against women, it is still relevant to domestic violence.

In 1948, the Universal Declaration on Human Rights (UDHR) was adopted by the UN General Assembly [2]. Although this document was not originally binding on the member states, but it has received such a wide acceptance as an outline of foundational human rights principles that it has been recognised as a binding expression of customary law and an authoritative interpretation of the UN Charter itself [3].

Article 3 of the UDHR states,

Everyone has the right to life, liberty and security of person" [4].

This right was reaffirmed in by the International Covenant on Civil and Political Rights (1966), which protects the right to life (Article 6) and the right to liberty and security of person (Article 9) [5]. These rights, as well as others in the UDHR, ICCPR, and the International Covenant on Social, Economic and Cultural Rights (ICESCR) [6], such as the right to equal protection under the law [7] and the right to the highest standard of physical and mental health [8], are implicated in domestic violence cases. Therefore, States that are parties to these instruments have an implicit obligation to protect women from domestic violence as part of their obligations.

Convention on the Elimination of All Forms of Discrimination against Women:

CEDAW was entered into force in 1981 and it too didn't explicitly include language on violence against women or domestic violence [9]. However its primary focus, in which State parties agree to "condemn discrimination against women in all its forms" [10] was interpreted as covering violence against women. Even a committee on the Elimination of All Forms of Discrimination against women was created and the monitoring body of CEDAW adopted General Recommendation Number 19 [11] which explicitly included gender based violence as a form of discrimination. It states:

The definition of discrimination includes gender based violence, i.e. violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender based violence may breach specific provisions of the convention, regardless of whether those provisions expressly mention violence [12].

Recommendation 19 also specifically addressed domestic violence as a form of discrimination against women, stating:

Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds including battering; rape other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on the basis of equality [13].

In 1999, the General Assembly adopted the Optional Protocol to the CEDAW¹ [14] It created two procedures to monitor compliance with CEDAW. First, it established a communications procedure for individual women, or groups of women, to submit claims of violations of CEDAW after exhausting domestic remedies [15]. Second, the optional Protocol created an inquiry procedure which enables the committee to investigate situations of grave or systematic violations of women's rights [16]. The decisions for such communications and inquiries are published on the UN Women website [17]. Both procedures can only be used in cases where the State is a party to the convention and the Optional Protocol.

Defining Domestic Violence

Domestic violence is also known as domestic abuse, spousal abuse, intimate partner violence, wife battering, and family violence etc. Its definition varies according to the context in which it is used; over time; and in different parts of the world. Traditionally, it was perceived as physical violence between married spouses and did not include threats of violence, marital rape, etc. According to Black's Law Dictionary, it means:

"Violence between members of the households, usually spouses, an assault or other violent act committed by one member of a household against other" [18].

However, contemporarily it has been defined very broadly to include sexual, psychological and economic abuses and moreover, the issues of power, supremacy, and control are explained to find the intent behind it [19]. Therefore, modern definition of domestic violence is space-neutral, multidimensional and inclusive and Laws increasingly define it as a process of exploitation, domination, and dehumanization. This extensive definition has been adopted by many countries viz., USA, UK and others [20].

Types of Abuse

According to the United States Department of Justice Office on Violence against Women, the definition of domestic violence is a pattern of abusive behaviour in any relationship that is used by one partner to gain or maintain control over

another intimate partner. Many types of abuse are included in the definition of domestic violence:

- Physical Abuse- It includes hitting, biting, slapping, battering, shoving, punching, pulling hair, burning, cutting, pinching, etc. (any type of violent behaviour inflicted on the victim). Physical abuse also includes denying someone medical treatment and forcing drug/alcohol use on someone.
- Sexual abuse- it occurs when the abuser coerces or attempts to coerce the victim into having sexual contact or sexual behaviour without the victim's consent. This often takes form of marital rape, attacking sexual body parts, physical violence that is followed by forcing sex, sexually demeaning the victim, or even telling sexual jokes at the victim's expense.
- Emotional abuse- it involves invalidating or deflating the victim's sense of self worth and/or self esteem. It often takes the form of constant criticism, name-calling, injuring the victim's relationship with his/her children, or interfering with the victim's abilities.
- Economic abuse- it takes place when the abuser makes or tries to make the victim financially reliant. Economic abusers often seek to maintain total control over financial resources, withhold the victim's access to funds, or prohibit the victim from going to school or work.
- Psychological abuse- it involves the abuser invoking fear through intimidation; threatening to physically hurt himself/herself, the victim, children, the victim's family or friends, or the pets; destruction of property; injuring the pets; isolating the victim from loved ones; and prohibiting the victim from going to school or work.
- Threats to hit injure, or use a weapon is a form of psychological abuse.
- Stalking can include following the victim, spying, watching, harassing, showing up at the victim's home or work, sending gifts, collecting information, making phone calls, leaving written messages, or appearing at a person's home or workplace. These acts individually are typically legal, but any of these behaviours done continuously result in a stalking crime.
- Cyber stalking- it refers to online action or repeated emailing that inflicts substantial emotional distress on the recipient [21].

Religion and Domestic Violence

Domestic Violence in Islam: Islam's position on domestic violence is drawn from the Quran, sunnah (prophetic practice) and historical and contemporary legal verdicts (fatwas). The Quran and Sunnah clearly illustrate the relationship between spouses. The Quran says that the relationship is based on tranquillity, unconditional love, tenderness, protection, encouragement, peace, kindness, comfort, justice and mercy.

Prophet Muhammad (SAW) set direct examples of these ideals of a marital relationship in his personal life. There is no clearer sunnah about a husband's responsibility towards his wife than his response when asked:

"Give her food when you take food, clothe her when you clothe yourself, do not revile her face, and do not beat her" [22].

He further stressed the importance of kindness towards women in his farewell pilgrimage and equated the violation of their marital rights to a breach of the couple's covenant with god. Abusive behaviour towards a woman is also forbidden because it contradicts the objectives of Islamic jurisprudence.

Domestic violence is addressed under the concept of harm (darar) in Islamic law. It includes a husband's failure to provide obligatory financial support (nafaqa) for his wife, a long absence of the husband from home, the husband's inability to fulfil his wife's sexual needs, or any mistreatment of the wife's family members.

Islam allows an abused wife to claim discretionary corporal punishment – ta'zir. Ib Abidin, a 19th century Syrian jurist said that a ta'zir is mandatory for a man who beats his wife excessively and breaks bone, burns skin or blackens or bruises her skin.

There are various other verses of Quran that are clearly against the violence towards woman and they are as under:

Surah 9 ayat 71: *"The believers, men and women, are protectors of one another: they enjoin what is just, forbid what is evil: observe regular prayers, practice regular charity, and obey Allah and his messenger, on them will Allah pour his mercy: for Allah is Exalted in power and wise"* [23].

Surah 30 ayat 21: *"And among his signs is this: He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy between your(hearts): Verily in that are the signs for those who reflect"* [24].

Surah 16 ayat 90: *"Allah commands justice, the doing of good, and liberality to kith and kin, and He forbids all shameful deeds, and injustice and rebellion: He instructs you, that he may receive admonition"* [25].

We can argue that if Islam condemns all forms of violence against women, then why verse 34 of Surah Nisa (Surah 4): It states:

"Men are in charge of women by (right of) what Allah has given one over the other and what they spend (for maintenance) from their wealth. So righteous women are devoutly obedient, guarding in (the husband's) absence what Allah would have them guard. But those (wives) from whom you fear arrogance- first advise them; then if they persist, forsake them in bed; and finally, strike them. But if they obey you once more, seek no means against them. Indeed, Allah is ever exalted and grand."

This verse actually talks about a nushuz i.e. a disobedient, flagrant and a misbehaving wife. If she is nushuz, she also forfeits her right of maintenance which otherwise every wife is entitled to.

The above mentioned Surah is just the victim of English translation as we don't have exact word for the Arabic word that is mentioned in the verse. Scholars have made every attempt to stipulate strict conditions and exclaimed that only when there is a seriously dysfunctional marriage due to the nushuz of the wife, and then only a man can take the defence of the said verse. So, any violence and coercion against women that is used to control or subjugate is considered to be oppression and is unacceptable in Islam even if it is sanctioned by cultural practices [26].

Allah says in Surah Nisa 4:19:

O believers treat women with kindness even if you dislike them; it is quite possible that you dislike something which Allah might yet make a source of abundant good.

This means that if the wife is either not beautiful or has some shortcoming because of which she does not seem attractive enough to her husband, the latter should not suddenly decide, in a fit of rage and disgust, to part with her. Rather he should act with patience and forbearance. It often happens that a woman lacks physical attraction but has other qualities which are of much greater value for the success of married life. Sometimes in the early stages of married life a husband dislikes certain things in his wife, and this initial dislike may even grow into revulsion. If a man remains patient and allow all the potentialities of the woman to be realized, it would become evident to him that her merits outweighed her weakness. Hence a man's haste in taking the decision to rupture the marital bond is not praiseworthy. Repudiation of marriage should be a man's last resort and that too in unavoidable circumstances.

Domestic Violence and Christianity: Violence has no place in a marriage, or any relationship, as violence is neither loving nor respectful of the other person, and in fact it breaks down everything upon which love and respect are built. As per Christians both men and women were created by god in his image, as equal partners with different roles.

Colossians 3:19 commands husbands to love their wives and never treat them harshly.

First Peter 3:7 states that husbands live with your wives in an understanding way, showing honour to the woman as she is the weaker vessel, since they are heirs with you of the grace of life, so that your prayers may not be hindered.

Proverbs 3:15 mentions that *"she is more precious than jewels, and nothing you desire can compare with her."* It means that women are more valuable than some of the most precious items on earth, so we need to treat them well and care for them, and they will return with love.

Corinthians 11-12 provides *"nevertheless, in the Lord woman is not independent of man or man of woman; for as woman was made from man, so man is now born of woman. And all things are from god."* It means that men and women

rely on each other. God made them equal partners in life, and they should respect each other [27].

Thus we can analyse and conclude that even in Christianity nothing like domestic violence or any sort of violence against woman is allowed. All what is provided for is mutual love and respect amongst partners whether married or unmarried.

Domestic Violence and Hinduism: Women are considered aspects of nature or embodiment of the universal mother, Shakti, in her aspect as pure energy (shaktiswarupini) she is extolled as Mata, the mother Goddess, or Devi the auspicious one, under the Hindu religion. As per Hinduism, the female was created by Brahma as part of the duality in creation, to provide company to men and facilitate procreation, progeny and continuation of family lineage. The Vedas placed comparatively greater duties and responsibilities upon men and exhorted women to help their men in performing such duties. They enjoyed respect in the society as daughters, mothers and wives. They prohibited men from harassing or neglecting women in their households and obliged them to protect their wives and take care of them until the end. They are expected to abandon her, since she is a gift from the gods under a pledge, except where there is sufficient justification such as mental illness, inability to bear children and adultery. Similarly, he has an obligation to take care of his aged mother or his dependent daughter.

Non violence is considered the highest virtue or the virtue of virtues, attained only at the end of a prolonged spiritual practice, when one reaches perfection in self-control and makes peace with one self and with the rest of the world. The Bhagvadgita aims to achieve the same goal through various paths. It declares that those who do not disturb others and are not disturbed by them in turn are very dearer to God. In Hinduism, causing intentional harm to others in any form is considered sinful with negative consequences for one's rebirth. There is no better example than God himself; he is the epitome of peace, having created the world, he remains a mere witness, letting the beings to exercise their will and live their own lives.

Violence is justified in Hinduism in the following circumstances:

- a. When one offers one's own life as a sacrifice to God.
- b. When one participates in a war either in self defence or for a righteous cause.
- c. To feed oneself by hunting etc. in times of famines, scarcity of food and starvation.
- d. When the mind and body are subjected to austerities and self-discipline to achieve liberation

In all the above cases violence is justified only when one resorts to it as an offering to God without selfish intentions and without seeking the fruit of such

actions. We see that violence against women or the wife or any kind of domestic violence is NOT permissible in Hinduism [28].

CONCLUSION

Home signifies a place where any woman feels safe and comfortable. She is the face of goddess Laxmi, parvati, Durga if she practices Hinduism, Mohsana i.e fortress against evil if she practices Islam, Mariam, Sarah, Deborah, Abigail if she follows Christianity. But all of this suddenly changes when a woman enters her matrimonial home. The same woman who was a face of holy goddess turns into an untouchable entity which is to be abused and rebuked, taunted and teased every now and then. It is because the family which has a hierarchal structure and sexual division of labour justifies subordination of female and use domestic violence as a tool to maintain this composition and its continuance.

A bizarre feature of domestic violence is not only inflicted by husband but also by other members of his family especially his mother and sisters. It leads to the belief that women are women's enemies thereby hiding the truth makes them the agents of patriarchy. An important facet of this problem is the reluctance of people to recognize its existence in the family therefore, social and cultural approval of domestic violence led to non-reporting of such cases. It appears that if woman does not retort at the first blow than man easily repeats it. Similarly, if husband knows that his wife will not depart and all his desires are being fulfilled even him being violent, he will certainly repeat it. However, the decision of leaving a violent husband depends on various factors such as woman's emotions related to the ideals of marriage institution; availability of alternatives to her; acceptability of her decision in her social circle; her financial status; and the likelihood of stigmatization and seclusion in society. If after considering these factors, woman is unable to leave her abusive husband and perceive no alternative for change then either she has to tolerate this behaviour for the rest of her life or take extreme step by committing suicide. However, woman can play and must play the greatest role in checking it.

Going through all the major religions that are practiced in India and all over the world the thing which can be summed up is that all religions are focusing on love and respect towards a woman whether she is married or not whether she's at her father's home or at her husband's home. No religion has given authority to conduct any sort of violence on women not to talk of domestic violence. Neither the husband nor the in-laws can contend that religion has given them a right to torture and abuse the wife.

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