



Cruel Realities: A Comparative Legal Lens on Violence Against Women in India, the UK, and the US

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ABSTRACT :

This abstract explores the laws addressing cruelty against women in India, comparing them with those in the United States and the United Kingdom. In India, the legal framework includes provisions like Section 85, 86, 80 of Bhartiya Nyaya Sanhita, 2023 which criminalizes cruelty by a husband or his relatives, and the Protection of Women from Domestic Violence Act (2005).

The U.S. enforces laws like the Violence Against Women Act (1994), focusing on both physical and emotional abuse.

In the UK, Domestic Abuse act 2021 emphasizing protection and legal resource. The comparative analysis highlights key differences in legal definitions, enforcement, and victim support mechanisms.

1. Introduction

Indian society has a great cultural oriented background, but in material sense it is still in a developing stage. We are living in 21st century, in this computer age the family life is not promising, the gap between relationships is widening. The discrimination between men and women is increasing, but at the same time we also witness few women who enjoy equal status. The material culture is dominating in contemporary society and we can see its reflection in matrimonial relations. Dowry has become a curse in our society. The cases of dowry death are on increase. The Indian women faced tremendous suffering and brutality against them.

In 1980s, there were many cases of dowry deaths in India. The number of Dowry death was continuously rising. The in-laws of the married women forced her to get the demands fulfilled in the form of money, articles, property, etc. If she could not fulfill their demand she had to face violence which sometimes amounted to her death. Women faced too much torture at the hands of her husband and in-laws. Marriage which was considered as union of two souls, two families are now looked upon as business ties. Marital relations are commercialized. The formation of certain legislation was felt essential to help women to attend justice. Many organizations requested the government to intervene in the matter and make relevant legislations to stop this malpractice. The Government in order to protect women from cruelty at the hands of her in-laws introduced Section 85, 86 of Bhartiya Nyaya Sanhita 2023. The section prescribed 3 years punishment and fine. The section has defined 'cruelty' in a wider sense. It includes both physical as well as mental harm to the body of the women. Harassment with a view to coerce her or her relatives to meet any unlawful demand for property or security also falls within the sweep of this section. The offence under section 85 of Bhartiya Nyaya Sanhita, 2023 is cognizable, non-compoundable and non-bailable.

2. Legal Framework in India, U.S., U.K.

2.1 Overview of Indian Laws Protecting Women from Cruelty

- Bhartiya Nyaya Sanhita, 2023: Section 85 (cruelty by husband or relatives) and related provisions.
- Domestic Violence Act, 2005: Provide details about the Protection of Women from Domestic Violence Act (PWDVA).
- Dowry Prohibition Act, 1961: Its role in curbing cruelty linked to dowry-related harassment.
- Criminal Law Amendment Act, 2013: Discuss the changes made after the Nirbhaya case (increasing punishment for sexual violence, stalking, and harassment).

2.2 Procedural Aspects

- Complaints and Reporting: Describe the process for women to file complaints against what they are suffering
- Law Enforcement: Examine the effectiveness of the police in addressing cruelty against women and what steps are they taking in that matter
- Challenges in Implementation: Discuss gaps such as underreporting, delays, and lack of awareness.

3.1 Overview of U.S. Laws on Domestic Violence and Cruelty Against Women

- Examine the Violence Against Women Act (VAWA) 1994, which includes its provisions, relevance, and effects on domestic violence legislation.
- State Laws: Emphasize how every state has its own laws pertaining to domestic violence, including penalties and orders of protection.
- Domestic violence programs are funded in part by the Family Violence Prevention and Services Act (FVPSA).

3.2 Procedural Aspects

- Filing Complaints: Explain how to approach the legal system and law enforcement to seek protection.
- The function of support services and law enforcement: Emphasize the shelters and specialized police forces.
- Discuss issues such as underreporting, racial inequality, and the lack of legislative protections for underprivileged populations.

4.1 Overview of UK Laws on Domestic Violence and Cruelty Against Women

- Domestic Violence, Crime and Victims Act, 2004: Domestic homicide reviews are one of the main features of this act
- Serious Crime Act, 2015: Talk about how coercive control is now illegal.
- The Domestic abuse act of 2021: The updated definition of domestic abuse and the availability of domestic abuse protection orders (DAPOs) are the main points of the act.

4.2 Procedure aspect

- Filling complaints: Explain how women can report abuse and seek protection by following the protocol.
- Support Systems: Talk about the function of government agencies, charities, and domestic violence hotlines.
- Difficulties and Drawbacks: Bring out issues like the stigma associated with domestic abuse and uneven enforcement in different areas.

3. Comparative Analysis of Laws in India, the United State , and the United Kingdom

Each country has its unique cultural and legal context about cruelty against women, there are some key similarities in the way cruelty against women manifest in these societies and these include a given below:

1. Prevalence of Domestic Violence -

- India: In India, women are subjected to economic, mental, and physical abuse in their homes, making domestic violence a severe problem. Domestic violence rates have been continuously high, according to the National Family Health Survey (NFHS).
- United States: High rates of domestic violence are another issue facing the United States. Nearly one in four women will at some point in their lives encounter severe intimate partner violence, according to the National Coalition Against Domestic Violence (NCADV).
- United Kingdom: In a similar vein, there are serious domestic violence problems in the UK. According to statistics, one in four women will be victims of domestic abuse at some point in their lives.

2. Sexual Violence and Harassment-

- India: Sexual violence, such as rape, molestation, and harassment, is still pervasive in India. The topic gained international attention after the notorious Delhi gang rape incident in 2012.
- United States: In the United States, sexual violence is also a serious problem. The frequency of sexual assault, harassment, and abuse in a variety of businesses has been made public by high-profile incidents like the #MeToo movement.
- United Kingdom: In the UK, sexual violence and harassment are also major issues. The issue has been brought to light by well-known incidents such as the Jimmy Savile affair and persistent problems with sexual harassment at work.

3. Legal Framework and Protection –

- India: India has legislation like the Sexual Harassment of Women at Workplace Act (2013) and the Protection of Women from Domestic Violence Act (2005), but awareness and enforcement are still issues.
- United States: Although access and execution can differ by state, statutes such as the Violence Against Women Act (VAWA) have been crucial in the U.S. in providing resources and protection for women.
- United Kingdom: The UK has laws like the Sexual Offences Act (2003) and the Domestic Violence, Crime and Victims Act (2004), but like India and the US, there are still issues with support networks and enforcement.

4 Impact of Technology and Social Media

- India: Social media and technology have given women a platform to tell their stories, but they also carry concerns like stalking and online abuse.
- Sup, there are still significant worries about online stalking, revenge porn, and digital abuse.
- United Kingdom: Online harassment, which can turn into physical violence, is another problem in the UK. Victims are frequently singled out on social media sites like Facebook, Instagram, and Twitter.

5. Gender Inequality and Discrimination

- India: In India, patriarchy, gender-based discrimination, and unequal access to jobs, education, and resources continue to exist, frequently permitting violence against women.
- United States: In spite of advancements, gender inequality persists in the United States. Systemic problems with gender wage disparities and inequality still exist, and women are underrepresented in leadership roles.
- United Kingdom: Gender inequality is another issue in the UK, as women suffer differences in opportunity, representation, and income, which can make them more susceptible to abuse.

4. Differences

India: India's legal system has been critiqued for its slow pace of justice, difficulties in enforcement, and the persistence of cultural practices that often undermine legal provisions. Over time, India's legal stance on cruelty toward women has changed. Important laws consist of the following given below:

- Bhartiya Nyaya Sanhita, 2023: This section 85 focuses on cruelty committed against a wife by a husband or his family. It makes cruelty, both mental and physical, illegal and carries fines and a maximum three-year jail sentence.

- Protection of Women from Domestic Violence Act, 2005: This law offers women who experience physical, emotional, sexual, or financial abuse in a domestic context more comprehensive protection. It permits residence orders, compensation orders, and protection orders.

- Sexual Harassment of Women at workplace (Prevention, Prohibition, and Redressal) Act, 2013: addresses occupational harassment and requires businesses to establish a secure workplace.

- Dowry Prohibition Act, 1961: This law specifically addresses violence related to dowries, which has been a common type of cruelty in India.

United States: The legal framework of US cruelty against women consist of the following laws given as under. Although there are many important federal and state laws in the United States, there are differences in how these laws are applied in various states.

- Violence Against Women Act (VAWA), 1994: This historic federal statute offers comprehensive assistance to women who are the victims of sexual assault, domestic abuse, and stalking. It contains clauses pertaining to financial support for shelters, legal aid, and tougher penalties for offenders.

- Family Violence Prevention and Services Act (FVPSA): Federal funding for emergency shelters and services for victims of domestic abuse and their children is provided by the act.

- Protection Orders: To prevent abusers from contacting victims, states in the United States permit civil protection orders. All across the country, these orders are enforceable.

- Title IX of the Education Amendments of 1972: Provides equal treatment in educational settings by protecting women from sexual harassment and violence in educational institutions.

United Kingdom: On the focus on victim protection, the UK has made great progress in combating domestic abuse; yet, challenges in police responsiveness and the burden of proof in court still exist and have some legal framework to deal with this issue:

- Domestic violence, Crime and Victim act, 2004: Domestic violence laws were significantly reformed by the act which strengthened protections for victims and stiffened punishments for perpetrators.

- Domestic Abuse Act, 2021: With the creation of Domestic Abuse Protection Orders (DAPOs) and a broader definition of domestic abuse that includes emotional, coercive, and controlling behaviour, this comprehensive statute provides increased protection for victims of domestic violence.

- Equality Act 2010: This law protects women from all types of gender discrimination, including in the workplace, even if it is not specifically focused on domestic abuse.

-Sexual offense act 2003 : assault and harassment, including rape and other forms of sexual exploitation, are particularly addressed by this act

5. Punishment and Rehabilitation Approach:

-India: Punitive measures have been prioritized in India; yet, the effectiveness of the legislation is frequently hampered by the sluggish judicial process and cultural resistance. Although awareness is growing, many places still lack adequate victim and offender rehabilitation and counselling programs.

- United States: VAWA and comparable statutes prioritize both victim protection and offenders' rehabilitation. However, the criminal justice system is occasionally criticized for failing to provide sufficient support networks, like mental health services and shelters, which might prolong violent cycles.

- United Kingdom: The UK mixes rehabilitation with punitive measures. Domestic Abuse Protection Orders (DAPOs), which mandate behaviour programs for abusers, can be enforced by courts under the Domestic Abuse Act (2021). However, victim resources and the way commands are carried out can differ.

Victim assistance and support services:

- India: Particularly in rural regions, victim services like shelters and legal assistance are sometimes insufficient. Despite the large number of non-governmental organizations (NGOs) offering aid, the infrastructure of the public sector is still lacking.

- United States: With a vast network of shelters, hotlines, and legal advocacy organizations, victim support programs are comparatively well-established in the United States. Access to services, however, can differ greatly due to state-to-state inequalities.

- United Kingdom: There are several organizations in the UK that provide housing, legal assistance, and psychiatric help, as well as strong institutional support for victims of cruelty. But there are still issues with these programs' financing and accessibility.

Efficacy and Implementation:

- India: Despite the existence of legal frameworks, they are not consistently applied. Long court fights, fear of social stigma, and a lack of enforcement tools discourage many women from seeking aid.

- United States: Although the country has made strides, there are still obstacles in the way of guaranteeing that all women, particularly those from underrepresented groups, have access to legal protection. Addressing police bias against women and enforcing restraining orders are persistent issues.

- United Kingdom: Despite significant advancements in legislative safeguards, access to support services and the enforcement of laws might differ, especially in rural areas. There is certainly need for improvement in the way Domestic Abuse Protection Orders (DAPOs) are implemented.

6. Case Laws

1. Vishaka and Others v. State of Rajasthan (1997)¹

- **Court:** Supreme Court of India

Explanation: This case laid the foundation for laws against **sexual harassment at the workplace** in India. Bhanwari Devi, a social worker, was gang-raped while trying to prevent a child marriage. The court observed the absence of legislation specifically dealing with workplace sexual harassment and laid down the **Vishaka Guidelines** under Article 141, which became binding until proper legislation (like the **POSH Act, 2013**) was passed.

- **Key Point:** Recognized sexual harassment at the workplace as a violation of fundamental rights under Articles 14, 19, and 21 of the Constitution.

2. Arnesh Kumar v. State of Bihar (2014)²

- **Court:** Supreme Court of India
- **Explanation:** This case addressed **misuse of Section 498A IPC** (cruelty by husband or his relatives). The court noted rampant misuse and directed the police not to automatically arrest the accused, unless necessary, and to follow **Section 41 CrPC** guidelines.
- **Key Point:** Protected individuals from false cases while maintaining the intent of anti-cruelty laws.

¹ AIR 1997 SC 3011; (1997) 6 SCC 241

² (2014) 8 SCC 273

United States

1. Town of Castle Rock v. Gonzales, 545 U.S. 748 (2005)³

- **Court:** U.S. Supreme Court

Explanation: Jessica Gonzales had a restraining order against her husband, who later killed their three children. She sued the police for failure to enforce the order. The Court ruled that she had **no constitutional right to police enforcement** of the restraining order. Despite the fact that a woman's estranged husband killed her three children as a result of the municipality and police department's failure to implement a restraining order, the Supreme Court decided that they were not liable under 42 U.S.C. § 1983. The woman could not claim for a constitutional violation because the court determined that she lacked a protected property interest in the restraining order's enforcement.

- **Key Point:** Criticized as a setback for women's rights, this case revealed the limits of legal protections in domestic abuse situations.

2. People v. Liberta, 64 N.Y.2d 152 (1984)⁴

- **Court:** New York Court of Appeals
- **Explanation:** This case **struck down marital rape exemption** in New York. The court ruled that rape laws should apply equally to all individuals, regardless of marital status.
- **Key Point:** A landmark ruling that recognized **marital rape as a crime**, leading to broader protections against domestic sexual violence.

United Kingdom

1. R v. R (1991)⁵

- **Court:** House of Lords (now UK Supreme Court)
- **Explanation:** This case abolished the **marital rape exemption** in English law. The court ruled that a husband could be guilty of raping his wife, ending centuries-old common law principles.
- **Key Point:** Historic decision that aligned the law with modern understandings of **consent and bodily autonomy**.

2. Opuz v. Turkey (2009)⁶

- **Court:** European Court of Human Rights (applied to UK via ECHR obligations)
- **Explanation:** A Turkish woman suffered domestic violence leading to her mother's murder. The court ruled that Turkey failed to protect her under **Article 2 (right to life)** and **Article 3 (prohibition of torture)** of the ECHR.
- **Key Point:** Recognized **domestic violence as a form of gender-based discrimination**, reinforcing state responsibility to protect women—impacting UK obligations under ECHR

7. Conclusion

Although it takes varied forms, cruelty to women is still a major problem in India, US and the UK. Cultural norms and underreporting exacerbate pervasive issues in India, such as sexual harassment, dowry murders, and domestic violence. Progress is hampered by social shame and economic reliance on men, even in the face of legal advances. Despite legislation such as the Violence Against Women Act (VAWA), sexual assault, domestic abuse, and workplace harassment continue to occur in the United States. Fighting abuse is made more difficult by victim-blaming, economic disparity, and racial discrimination. Despite improvements in support services and legal measures, sexist attitudes and underreporting continue to be major contributors to violence against women in the UK, especially when it comes to sexual harassment and assault.

³ 545 U.S. 748 (2005)

⁴ 64 N.Y.2d 152; 474 N.E.2d 567

⁵ [1991] UKHL 12; [1992] 1 AC 599

⁶ Application no. 33401/02, European Court of Human Rights