

PATRIARCHY, LAW AND HUMAN RIGHTS: A CRITICAL STUDY OF VIOLENCE AGAINST WOMEN

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ABSTRACT

Violence against women is one of the most pervasive human rights violations in the modern world, cutting across cultural, economic and political boundaries. It is rooted in patriarchy and systemic gender inequality, manifesting in forms such as domestic abuse, sexual assault, dowry deaths, honor killings, trafficking, and cyber violence. Internationally, violence against women has been recognized as a human rights violation through instruments like the Universal Declaration of Human Rights (1948), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), and the UN Declaration on the Elimination of Violence Against Women (1993). These frameworks emphasize state responsibility to prevent, investigate, and punish acts of gender-based violence.

*In India, the constitutional mandate of equality (Articles 14, 15) and dignity (Article 21) forms the basis of legal protection for women. Legislations such as the Indian Penal Code, the Dowry Prohibition Act, the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace Act, 2013, provide comprehensive remedies. Judicial pronouncements, notably *Vishakha v. State of Rajasthan* (1997), *Shakti Vahini v. Union of India* (2018), and the *Nirbhaya* case (2017), have strengthened the legal discourse by treating violence as a constitutional and human rights violation rather than merely a private wrong.*

However, enforcement challenges persist. Social stigma, patriarchal mindsets, institutional apathy, and judicial delays hinder access to justice. While the legal framework is strong, its

effectiveness is undermined by inadequate implementation and lack of gender sensitization. Globally, best practices such as the U.S. Violence Against Women Act (1994), Europe's Istanbul Convention (2011), and Africa's Maputo Protocol (2003) demonstrate effective policy models that India can adapt.

This research argues that addressing violence against women requires a multi-pronged approach: stronger legal enforcement, institutional accountability, gender-sensitive education, technological tools, and deep-rooted social reforms. Violence against women is not merely a women's issue but a fundamental human rights challenge. Eliminating it is essential to realizing equality, justice, and democratic ideals.

Keywords: *Violence against women, human rights, gender justice, India, international law, CEDAW, domestic violence, judicial response.*

1. INTRODUCTION

Across human societies, systems of rules and norms have historically evolved to regulate collective life. These norms persist because communities accept and internalise them, and this acceptance strengthens their legitimacy. Often, however, such structures primarily serve the interests of those who hold power. In patriarchal societies, dominant groups typically men work consciously and unconsciously to preserve arrangements that secure their authority. Those who are subordinated, including women, may comply with these norms either due to direct coercion or because they have been socialised into accepting patriarchal values as natural.

Gender-based hierarchies are deeply entrenched, and the distribution of power continues to favour men across social, economic, and cultural spheres. Social rules, instead of challenging these disparities, frequently reinforce them. Among these rules, the notion of *honour* stands out as a powerful tool of patriarchal control. Constructed as a marker of status and respectability, honour often becomes a justification for various forms of violence when individuals particularly women are perceived to deviate from prescribed social or moral codes.

The burden of safeguarding family or community honour disproportionately falls on women, making their bodies and behaviour the primary site of patriarchal regulation. This study seeks to critically examine how the ideology of honour is used to legitimise violence against women and to explore the reasons why even women themselves may internalise and uphold these structures. The violence committed in the name of honour is not random; it reflects a determined attempt to preserve existing power relations and patriarchal status quo¹.

Understanding the emotional, social, and political forces that sustain such practices is crucial. A deeper examination of these dynamics is essential for policymakers, legal institutions, and human rights advocates to meaningfully address the systemic barriers that impede women's empowerment and to design interventions that challenge the cultural foundations of gender-based violence.

Across cultures, societies develop their own norms that dictate acceptable behaviour and define what it means to be "normal." Compliance with these norms is often demanded, and any departure from them can provoke severe, even violent, reactions. As Emile Durkheim suggests, conduct perceived as deviant or pathological is frequently punished, with the severity of the response shaped by how seriously the deviation challenges the established order.

Among the most pervasive of these norms are the concepts of *honour* and *purity*. These ideals transcend geographical and cultural boundaries explicitly articulated in some communities while subtly reinforced in others. Crucially, these notions are mapped onto women's bodies and sexuality, making women the primary custodians of familial and community honour. In patriarchal settings, a woman's perceived sexual purity becomes a symbolic measure of the status and respectability of the men in her family.

This gendered allocation of responsibility creates an environment where women disproportionately bear the burden of maintaining honour. When the socially constructed notion of honour is viewed as threatened, the consequences can be severe. Women may face coercion, social exclusion, threats, and various forms of violence including, in extreme cases, honour

¹ ÉMILE DURKHEIM, *THE RULES OF SOCIOLOGICAL METHOD* (Univ. of Chi. Press 1938) (1895).

killings. Such acts are not isolated incidents; they reflect deeply embedded patriarchal structures that equate control over women's sexuality with the preservation of social order.²

The concept of honour is deeply interwoven with the idea of women's sexual purity. In many patriarchal cultures, the expectation of purity is not merely a moral aspiration but a mechanism for safeguarding honour itself. A family's social standing is often tied to the perceived sexual conduct of its women, making their bodies the primary terrain on which honour is constructed and defended. This results in constant surveillance and regulation of women's sexuality to ensure adherence to these prescribed norms.

At the core of this regulation lies patriarchy – a pervasive and near-universal social structure. As V. Geetha explains, patriarchy functions by establishing men in positions of privilege through control over various forms of resources, thereby compelling women to struggle for autonomy at every level³. Sexuality becomes one such resource over which control is rigidly exercised. The insistence on purity emerges directly from this control, reinforcing male authority while restricting women's autonomy.

This analysis therefore foregrounds the multiple challenges women encounter due to patriarchal expectations surrounding honour and purity. These intertwined constructs not only legitimise intrusive control over women's bodies and choices but also enable forms of violence that seek to maintain the existing gendered power hierarchy.

2. THE OPERATIONS OF THE FORCES OF HONOUR

Honour, refers to a rigid set of values that confer prestige and elevated social standing upon individuals and their families. Vandello and Cohen conceptualise honour as encompassing virtues such as moral integrity, good character, and altruism, noting that its social weight varies across cultures. In many societies, however, honour becomes a powerful tool for regulating women's behaviour, particularly in the context of marriage. The insistence on women's sexual

² Joseph A. Vandello & Dov Cohen, Male Honor and Female Fidelity: Implicit Cultural Scripts that Perpetuate Domestic Violence, 84 J. Pers. & Soc. Psychol. 997, 997 (2003).

³ PREM CHOWDHRY, *POLITICAL ECONOMY OF PRODUCTION AND REPRODUCTION: CASTE, CUSTOM AND COMMUNITY IN NORTH INDIA* (Oxford Univ. Press 2010).

purity is often justified as necessary for securing a “respectable” or high-status marriage, thereby reinforcing patriarchal expectations.⁴

In the Indian context, especially in arranged marriage systems, scholars such as Prem Choudhary highlight the enormous significance attached to honour, purity, and chastity. Her research on Haryana illustrates how men assume the responsibility of safeguarding this collective honour, which is believed to reside in women’s bodies and sexuality. As a result, women’s sexuality must be tightly controlled through marriages that are deemed socially appropriate and culturally sanctioned. Women thus become symbolic carriers of community identity, held accountable for any perceived violation of group norms, whereas men assume the authority to define and enforce those norms.⁵

This framework of honour has also been used to legitimise extreme forms of violence. As Baker, Gregware and Cassidy argue, honour for men is externalised it is located not within themselves but in the women they control. Maintaining honour, therefore, becomes synonymous with exercising dominance over women, and this distorted logic has been invoked to rationalise even killings committed in the name of honour.

Honour killings emerge within social environments where powerful collective pressures determine individual behaviour. In such settings, families may resort to violence against their own members because the weight of societal expectations becomes overwhelming⁶. Actions that may appear irrational or unjustifiable in an objective sense acquire legitimacy within this framework, and are often treated as socially sanctioned or even necessary responses. The community’s approval reinforces the idea that preserving honour is paramount, even at the cost of human life.

⁴ Aylin Akpınar, *The Honor/Shame Complex Revisited: Violence Against Women in the Migration Context*, 26 *WOMEN’S STUD. INT’L F.* 425, 428 (2003)

⁵ Nancy V. Baker, Peter R. Gregware and Margery A. Cassidy, “*Family Killing Fields : Honor Rationales in the Murder of Women*” (1999) 5(2) *Violence Against Women* 164, 165

⁶ PREM CHOWDHRY, *POLITICAL ECONOMY OF PRODUCTION AND REPRODUCTION: CASTE, CUSTOM AND COMMUNITY IN NORTH INDIA* 321–22 (Oxford Univ. Press 2010)

Prem Choudhary, examining cases of elopement and self-choice marriages, notes that when a woman marries without family approval particularly outside her caste or community her actions are perceived as a grave affront to familial honour. Within these norms, it is considered “honourable” for male relatives to retrieve the woman or, in extreme cases, to kill her rather than allow her to continue a relationship deemed unacceptable. Such women are viewed as having brought shame upon their families, and families fear social ridicule if they fail to take punitive action.⁷

Because these marriages occur without the family’s consent, male members interpret violence as a legitimate means of restoring honour. This response is deeply intertwined with patriarchal constructions of masculinity, where men are expected to assert authority and re-establish control over women’s choices. Thus, honour killings become not only acts of violence but also expressions of socially endorsed masculine identity within patriarchal communities⁸.

Honour, and the effort to preserve it, is closely tied to socially constructed notions of masculinity. Within patriarchal settings, a man’s status is believed to depend on his capacity to exert control over the women in his family. This gendered expectation situates honour not as an internal virtue but as something that must be defended through dominance. Consequently, masculinity and femininity become central to defining what counts as honourable behaviour. Any deviation from prescribed feminine roles is met with hostility and moral outrage.

Women who do not conform whether by remaining unmarried, facing infertility, or exercising personal autonomy are often portrayed as threats to the social order. Their non-conformity is interpreted as a challenge to the cultural script that dictates obedience, chastity, and reproductive responsibility. In some contexts, this anxiety takes extreme and violent forms. Scholars have argued that practices such as witch-hunting reflect the collective panic triggered by women who

⁷ Dina M. Siddiqi, Of Consent and Contradiction: Forced Marriages in Bangladesh, in *HONOUR: CRIMES, PARADIGMS, AND VIOLENCE AGAINST WOMEN* 291–92 (Lynn Welchman & Sara Hossain eds., Zed Books 2005).

⁸ Aisha K. Gill & Samantha Walker, On Honour, Culture and Violence Against Women in Black and Minority Ethnic Communities, in *THE EMERALD HANDBOOK OF FEMINISM, CRIMINOLOGY AND SOCIAL CHANGE* 161–62 (Kate F. Gibbon, Sandra Walklate, JaneMaree Maher & Jude McCulloch eds., Emerald Publ’g Ltd. 2020).

refuse or fail to embody stereotypical femininity. Branding such women as witches becomes a socially sanctioned strategy for disciplining them through public humiliation, expulsion, or even lethal violence.⁹

Thus, women remain burdened by the constant pressure to embody narrowly defined ideals of femininity, reinforcing patriarchal structures that legitimise both social control and gender-based violence.

Women's rights are routinely curtailed within patriarchal frameworks, where their autonomy is diminished and their consent is often assumed rather than sought. This results in a subtle yet pervasive infantilisation, as crucial decisions especially those related to marriage are delegated to male family members who ensure conformity with prevailing social norms. Before moving further, it is important to clarify that although cultural practices influence such forms of violence, attributing honour-based violence solely to culture is both misleading and problematic.

As later sections will demonstrate, honour-related violence is not confined to so-called “non-Western” societies; it manifests in various forms across the world. This is why scholars such as Gill and Walker caution against the *culturalisation* of violence. Their argument is particularly significant in the post-modern context, which critiques universal narratives and advocates for contextualised understandings. In many Western settings, violence against women is typically attributed to individual motivations for power and control. In contrast, violence in non-Western societies is frequently portrayed as arising from collective cultural obligations, with perpetrators depicted as acting reluctantly under the weight of unwritten cultural rules.

Within this narrative, honour becomes framed as an intrinsic cultural value, to the extent that culture itself is imagined as the perpetrator rather than the individuals who commit the acts of violence. This framing fosters an “us versus them” divide, making it harder to critically examine honour-based violence and often generating harmful cultural stereotypes. Moreover, when the problem is viewed purely through a cultural lens, the suggested solutions tend to focus on

⁹ Eva Brems, *Enemies or Allies? Feminism and Cultural Relativism as Dissident Voices in Human Rights Discourse*, 19 HUM. RTS. Q. 148, 154 (1997).

extracting women from their “oppressive” cultures, ignoring the fact that culture is an integral part of their identities and lived realities.¹⁰

Gill and Walker therefore argue that honour-based violence must be located within the broader continuum of gender-based violence, which exists universally across societies. Recognising cultural influences is necessary, but culture cannot be treated as the sole explanatory factor. Women are targeted fundamentally because of their gender, and these acts of violence are legitimised within patriarchal systems¹¹. Reducing the issue merely to culture obscures the underlying gendered power relations and diminishes the structural nature of the problem.

Brems argues for the need to establish a middle ground between feminist perspectives and cultural relativist approaches¹². These two positions often come into conflict when cultural practices prescribe specific roles or behaviours for women. From a feminist standpoint, culture and religion are frequently viewed with suspicion because they are seen as vehicles for enforcing patriarchal control. Cultural relativism, on the other hand, prioritises the right of individuals and communities to practice their cultural traditions, often critiquing universal standards of women’s rights as Western constructs. This tension creates a recurring paradox: the defence of cultural autonomy versus the protection of women’s rights.

However, Brems suggests that the perceived divide between these positions may be overstated. Both perspectives, she argues, ultimately seek to make human rights more responsive to lived human realities. They share the belief that human rights must apply to all individuals, yet they insist that these rights cannot be interpreted in ways that ignore either gender or cultural context. In other words, human rights frameworks must be attentive both to the specificity of women’s experiences and to the cultural environments in which these experiences unfold.¹³

¹⁰ S. Phadke, Thirty Years On: Women’s Studies Reflect on Women’s Movement, 38 ECON. & POL. WKLY. 4567 (2003).

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¹² Eva Brems, Enemies or Allies? Feminism and Cultural Relativism as Dissident Voices in Human Rights Discourse, 19 HUM. RTS. Q. 148, 154 (1997).

¹³ GEETANJALI GANGOLI, *INDIAN FEMINISM: LAW, PATRIARCHIES AND VIOLENCE IN INDIA* 15–21 (Ashgate Publ’g Ltd. 2007).

When addressing honour and honour-based violence, this nuanced understanding becomes crucial. Any externally imposed, one-size-fits-all remedy is likely to face strong resistance, as cultural systems by their very nature oppose outside interference. The challenge becomes even more complex when women themselves internalise and participate in sustaining these systems, which reinforces the difficulty of transforming harmful practices.

Therefore, echoing the concerns raised by Gill and Walker, Brems emphasises that the goal should not be to remove women from their cultural contexts or portray culture as inherently oppressive. Instead, honour-based violence must be approached as part of the broader continuum of gender-based violence. This perspective allows for meaningful critique and reform without erasing the cultural identities of the very women such interventions aim to protect¹⁴.

The key point, therefore, is that while culture plays a significant role in shaping notions of honour, the individual and the value he attaches to these cultural norms must also be recognised as part of the equation. Honour-based violence cannot be understood solely through cultural explanations; it is equally rooted in the misogyny and patriarchal structures that define gender relations in society. These underlying power dynamics shape how individuals interpret and act upon cultural expectations. If patriarchal attitudes were not so deeply embedded, violence against women would not appear with such consistency across diverse societies. Its global presence underscores that the problem is not merely cultural but fundamentally gendered, arising from systems that normalise male dominance and the control of women.

3. EVERYDAY VIOLENCE: A PERSPECTIVE FROM THE INDIAN WOMEN'S MOVEMENT

Violence against women emerged as a central mobilisation point during the early phase of the Indian women's movement. Two developments in particular defined this period. First, although women's groups had earlier protested the use of rape as a tool to suppress democratic dissent, it

¹⁴ MADHU KISHWAR, *OFF THE BEATEN TRACK: RETHINKING GENDER JUSTICE FOR INDIAN WOMEN* 30 (Oxford Univ. Press 1999).

was during this era that sexual violence came to be framed explicitly as a *women's rights* concern rather than merely a civil liberties issue¹⁵. This shift marked an important reconceptualization of rape and other forms of gendered violence as systemic manifestations of patriarchy.

Second, the nationwide campaign that arose in response to the Supreme Court's decision in *Tukaram v. State of Maharashtra* (the Mathura rape case) in 1979–1980 served as a unifying force. The case involved the custodial rape of Mathura, a minor, by police officers inside a police station. Public outrage over the judgment which appeared to exonerate the accused galvanised widespread protests across India. These protests brought together previously scattered and localised women's groups, enabling the women's movement to articulate its demands in a cohesive, collective voice for the first time.

The contemporary women's movement broadened its agenda by addressing multiple forms of violence against women, placing particular emphasis on sexual oppression in ways that earlier reformist or feminist initiatives had not. Activists began interrogating the foundational assumptions that shaped women's roles within the family and society assumptions rooted in rigid biological sex differences that were used to legitimise a so-called "natural" division of labour between men and women. They challenged the entrenched belief that the public sphere rightfully belonged to men, while the private sphere was the domain of women, arguing that such gendered separation inevitably reinforces male dominance.

This dichotomous understanding of gender roles confined women to subordinate positions and increased their vulnerability to humiliation, abuse, and violence, even within the household. Earlier phases of the women's movement had not significantly questioned the patriarchal structures embedded within family and social institutions. By contrast, the new wave of the movement explicitly scrutinised the ways in which biological differences were socially constructed to justify unequal power relations and to shape the gendered division of labour. This

¹⁵ PREM CHOWDHRY, *POLITICAL ECONOMY OF PRODUCTION AND REPRODUCTION: CASTE, CUSTOM AND COMMUNITY IN NORTH INDIA* (Oxford Univ. Press 2010)

shift marked an important ideological transformation, enabling a deeper critique of patriarchy as a systemic force underpinning violence against women.

The Indian women's movement has frequently faced criticism for adopting a supposedly "Western" orientation. However, the anti-rape and anti-domestic violence campaigns of the 1980s clearly demonstrate that the issues highlighted by Indian feminists were distinct from those emphasised in Western feminist movements. While the overarching concern violence against women was shared, the specific forms of violence and their socio-cultural contexts were uniquely Indian¹⁶. Activists drew attention to sexual violence perpetrated by state actors, particularly the police, against the most marginalised groups: poor, Dalit, Adivasi, and minority women. In the realm of domestic violence, the movement centred its efforts on dowry-related abuse and dowry deaths issues deeply embedded within the Indian social and cultural fabric.

Although the Indian women's movement is often portrayed as predominantly urban and middle-class, such characterisations overlook the significant mobilisation among rural women. Urban feminists may have been more visible and vocal, but their rural counterparts organised autonomously and contributed actively to shaping the movement's demands. Indian feminists have also openly acknowledged internal differences based on class, caste, region, and social location. Yet, despite these internal diversities, they shared a common understanding: that gendered power relations systematically privilege men over women.

It is this shared recognition of structural inequality that enabled diverse women's groups across India to come together in a collective struggle for legal reform. Their sustained efforts in addressing violence against women aimed to create a legal framework that allows all women regardless of their social position to claim justice and assert their rights.

A. Rape

During 1979–1980, the nationwide campaign against the Supreme Court's judgment in the Mathura rape case (*Tukaram v. State of Maharashtra*, 1979) transformed violence against women into a major public and political concern. The custodial rape of Mathura and the Court's

¹⁶ Flavia Agnes, Protecting Women Against Violence? Review of a Decade of Legislation, 27 ECON. & POL. WKLY. WS19, WS21 (1992).

controversial acquittal of the accused triggered widespread outrage, prompting women's groups across the country to mobilise. The primary objective of this campaign was to generate public awareness and advocate for comprehensive reform of India's rape laws.

Women's organisations proposed several amendments, but two demands were at the forefront. First, they argued that the burden of proof should shift from the prosecution to the accused in cases of rape, recognising the inherent power imbalance and the difficulties survivors face in proving non-consent. Second, they insisted that a survivor's sexual history should be deemed irrelevant and inadmissible as evidence during rape trials, as such practices reinforced patriarchal stereotypes and discouraged victims from seeking justice.

When the law was eventually amended in 1983, only part of these demands was addressed. The presumption of absence of consent was incorporated, but only in cases of custodial rape, leaving the broader reform incomplete. The exclusion of a woman's sexual history from evidence was not accepted at that stage. Nevertheless, the sustained protests by women's groups succeeded in securing significant, albeit partial, changes to the legal framework governing rape, marking an important milestone in the struggle for gender justice in India.

One of the significant shortcomings of the 1983 amendments lay in their continued reliance on conservative assumptions surrounding virginity and chastity. These concepts are deeply rooted in honour-based ideology, where a woman's worth is linked to the condition of her body. In such a framework, a survivor who is not a "virgin" is perceived as having lost honour, shifting the burden of shame onto the victim rather than the perpetrator. These patriarchal assumptions seeped into the amended law, reflecting the influence of conservative political voices.¹⁷

For instance, the newly introduced provision criminalising the publication of any material related to a rape trial was justified as a means of protecting the survivor from social stigma. However, this framing implicitly reinforced the culturally entrenched idea that stigma naturally attaches to the victim. Instead of affirming that shame rightfully belongs to the perpetrator and

¹⁷ Dina M. Siddiqi, Of Consent and Contradiction: Forced Marriages in Bangladesh, in *HONOUR: CRIMES, PARADIGMS, AND VIOLENCE AGAINST WOMEN* 291–92 (Lynn Welchman & Sara Hossain eds., Zed Books 2005).

not the survivor, the law aligned itself with existing norms of honour and modesty, thereby perpetuating harmful cultural codes.

Furthermore, a traditional and reductive interpretation of rape as a crime driven by sexual passion rather than a manifestation of male dominance and violence continued to influence judicial attitudes. This conservative lens contributed to instances of judicial leniency towards perpetrators, revealing how patriarchal understandings of sexuality and honour remained embedded within the legal system even after the reforms.

Women's groups therefore asserted the urgent need for the law to acknowledge rape within familial settings. Yet, the explicit exclusion of marital rape from the legal definition of rape continued to reflect a deeply entrenched social belief: that a husband possesses inherent sexual rights over his wife's body, irrespective of her consent. This omission reinforced the patriarchal notion that marriage legitimises unrestricted access to a woman's sexuality.¹⁸

The amended law did, however, introduce the category of "aggravated sexual assault," which covered assaults committed by individuals in positions of authority or trust such as police officers, members of the armed forces, public servants, family members, guardians, or others exercising social or economic domination. These provisions recognised the heightened vulnerability of victims when power imbalances are involved.

Another critical aspect of the reforms was the establishment of 18 years as the age of consent, thereby classifying any sexual activity with a person below this age as statutory sexual assault, irrespective of the question of consent. This provision sparked intense debate within the women's movement. While some activists supported it as a protective measure, others criticised it for reinforcing patriarchal control over young women's sexuality. In contexts where self-choice marriages or elopements are socially disapproved especially given the dominance of arranged marriages families often file charges of abduction or rape against the underage girl's partner. Consequently, the law not only strengthens familial and societal regulation of young

¹⁸ Sharmila Rege, *Dalit Women Talk Differently: A Critique of 'Difference' and Towards a Dalit Feminist Standpoint*, 33 *ECON. & POL. WKLY.* WS39, WS41 (1998).

women's choices but may also criminalise consensual relationships, subjecting young men to imprisonment and using legal mechanisms as tools of social control.

Thus, the legal understanding of rape in India remains layered and complex. Despite these limitations, the anti-rape campaign played a crucial role in bringing diverse women's groups together, enabling coordinated advocacy and laying the foundation for subsequent legal reforms.

B. Dowry

The anti-dowry campaign marked a critical moment in the feminist movement, embodying the principle that "the personal is political." By exposing violence within the ostensibly private sphere of the home, the campaign brought domestic abuse into the realm of public concern. This shift provoked strong public outrage and drew significant national and international media attention to the pervasive violence faced by women within marital households.

Women's organisations emphasised that dowry was not an isolated practice but a symptom of the deeply entrenched inferior status of women in Indian society. Campaign strategies relied heavily on neighbourhood-level mobilisation and direct protests. These collective actions radically reframed the narrative of shame: instead of blaming the woman for failing to bring an adequate dowry, activists placed moral and social responsibility squarely on the families that harassed or killed their daughters-in-law. Through social ostracism, public demonstrations, and visible community pressure, the campaign sought to label such families as perpetrators of violence, effectively challenging and disrupting the cultural norms that had long protected them.¹⁹

This tactic of shifting stigma away from the victim and onto the perpetrators proved to be a powerful strategy in confronting dowry-related violence and in redefining the public discourse on women's rights.

The anti-dowry campaign placed significant emphasis on securing legislative reform to address dowry-related violence. As a result of sustained pressure from women's groups, the Dowry

¹⁹ Ratna Kapur, *The Tragedy of Victimization Rhetoric: Resurrecting the "Native" Subject in International/Postcolonial Feminist Legal Politics*, 15 HARV. HUM. RTS. J. 1, 14 (2002)

Prohibition Act, 1961 was amended to broaden the definition of dowry. The earlier phrasing “as consideration for the marriage” was replaced with “in connection with the marriage,” thereby expanding the scope of what could be legally recognised as dowry. However, proposals advanced by women’s organisations to impose ceilings on gift-giving and marriage expenditures were not accepted, reflecting the resistance of lawmakers to more substantive structural reforms.

Further amendments were introduced in 1986 to strengthen the legal framework. These changes included harsher penalties, making dowry offences non-bailable, and shifting the burden of proof onto the accused an important step given the difficulties women face in proving dowry harassment. Additionally, the amended law mandated that, upon the breakdown of a marriage, dowry items must be returned to the woman. This change rested on the recognition that dowry should be treated as *stridhan*, a woman’s exclusive property, thereby providing her with greater financial security and legal standing.

These legislative developments, though imperfect, reflected the growing influence of feminist advocacy in shaping legal responses to violence against women.

Despite its achievements, the anti-dowry campaign did not fully address the deeper critique of the family as a patriarchal institution. Women’s groups also pointed out that dowry-related violence was increasingly tied to aspirations for consumer goods and immediate financial gain. In the Indian context, the concept of *izzat* referring to dignity, honour, reputation, or social status plays a central role in shaping dowry practices. *Izzat* is connected to dowry in two significant ways. A lavish dowry is often perceived as a marker of a family’s status and thus enhances their honour. Conversely, a modest or insufficient dowry is viewed as a social affront, bringing shame not only upon the bride’s family but also upon the groom’s family who consider themselves slighted.²⁰

Indeed, *izzat* frequently outweighs purely economic considerations. Conflicts between the families of the bride and groom often revolve less around monetary inadequacy and more around

²⁰ Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* 64–66 (Univ. of Chi. Press 2006).

whether the groom's family believes they were accorded the respect and recognition they feel entitled to. As a result, disputes framed as financial disagreements are often rooted in questions of honour, status, and patriarchal expectations revealing how dowry functions not just as an economic transaction but as an instrument for performing and negotiating social hierarchy.²¹

During this period, certain sections of the women's movement began to shift their perspective, viewing women not solely as victims of violence and gendered oppression but also as active agents of social transformation. This reconceptualisation marked an important theoretical and political development. The debate surrounding women's agency versus victimhood has since become a central theme within women's studies, prompting scholars and activists to explore how women navigate, resist, and reshape the very structures that constrain them. Recognising women as agents complicates simplistic narratives of oppression and opens space for understanding the diverse strategies through which women challenge patriarchy and participate in broader processes of social change.²²

C. Domestic violence

Violence operates as a mechanism for controlling and subordinating women, reflecting and reinforcing the unequal power relations between men and women. In the Indian context, such violence permeates multiple spheres of life and is exacerbated by the widespread social acceptance of violence against women, particularly within the home. By foregrounding domestic violence as a central issue, Indian feminists have directly challenged the dominant narrative that views the family as an inherently nurturing institution offering love, support, and security. Instead, they have exposed how the family can also be a site of coercion, abuse, and oppression for women²³.

Through sustained campaigns, women's groups have broadened the understanding of violence beyond visible physical harm. They have highlighted the significance of psychological abuse,

²¹ Sharmila Rege, *Dalit Women Talk Differently: A Critique of 'Difference' and Towards a Dalit Feminist Standpoint*, 33 *ECON. & POL. WKLY.* WS39, WS41 (1998).

²² Pratiksha Baxi, *Sexual Violence and Its Discontents: Rape Law Reform in India*, 12 *SOCIO-LEGAL REV.* 41, 44 (2016).

²³ Uma Chakravarti, *Gender, Caste and Labour: Ideological and Material Structure of Widowhood*, 30 *ECON. & POL. WKLY.* 2248, 2250 (1995)

economic deprivation, and other subtle forms of coercion harms that are often normalised within familial and marital relationships and that operate through mechanisms of consent, dependency, and internalised expectations. This expanded definition underscores the systemic nature of gender-based violence and the need to confront the patriarchal structures that legitimise and reproduce it.

Sexual violence within families is closely tied to the structurally subordinate and economically dependent position of women in Indian households, where decision-making authority and property control are overwhelmingly concentrated in the hands of men. Consequently, it is not dowry alone that must be challenged, but the broader patriarchal power dynamics embedded within the family. Simply prohibiting dowry cannot alter the underlying reality that economic resources and ownership rights remain predominantly male-dominated. This perspective stands in contrast to analyses that attribute violence primarily to the materialism associated with dowry. Instead, women's groups have emphasised that dowry-related violence is a symptom of deeper structural inequalities, particularly the gendered distribution of power and resources within familial institutions.²⁴

In accordance with the dominant patrilineal and patrilocal structures across most regions of India, marriage entails a permanent relocation of the woman from her natal household to her husband's family. This transition, framed as natural and inevitable, reinforces the authority of the marital family and leaves women structurally vulnerable within their new households. These patriarchal arrangements are further bolstered by institutional actors most notably the police who frequently hesitate to intervene in cases of domestic violence, treating them as private, family matters rather than serious violations of women's rights.

This institutional reluctance manifests in unequal ways across caste and class lines. Poorer, Dalit, Adivasi and minority women are often dismissed outright or denied assistance. Middle-class women, by contrast, may receive attention, but are commonly counselled to "adjust,"

²⁴ Flavia Agnes, *Protecting Women Against Violence? Review of a Decade of Legislation*, 27 *ECON. & POL. WKLY.* WS19, WS21 (1992).

return to their marital homes, and avoid “breaking the family.” In both cases, the implicit message is that family unity supersedes a woman’s safety and autonomy.

Police officers may also pressure women by warning that leaving an abusive household could jeopardise their custody of their children, thus coercing them into remaining in violent environments. Similarly, family court judges frequently prioritise reconciliation above all else, advising women to return to abusive partners regardless of the severity or persistence of the violence. These institutional practices reinforce patriarchal norms and sustain a legal and social system that normalises women’s suffering within marriage.

4. SUGGESTIONS AND RECOMMENDATIONS

Addressing honour-based violence and the broader spectrum of gender-based violence in India requires a multidimensional approach that confronts both structural patriarchy and the cultural norms that legitimise male dominance. To begin with, the legal framework must move beyond piecemeal reforms and explicitly recognise the full range of harms physical, psychological, sexual, and economic that women experience within families and intimate relationships. This includes acknowledging marital rape as a criminal offence and rejecting the outdated assumption that marriage entails implied and irrevocable consent. Likewise, dowry laws must be strengthened not merely by criminalising the practice but by tackling the gendered distribution of property, ensuring that women have independent inheritance rights and actual control over resources. Criminal law reforms should additionally incorporate victim-centred procedures, such as the exclusion of a woman’s sexual history in rape trials, the reversal of evidentiary burdens in all custodial or power-asymmetry situations, and mandatory sensitisation training for police, prosecutors, and judges.

Beyond legal reform, there is a pressing need for institutional transformation. Police and judicial institutions must be trained to view domestic and sexual violence not as “private matters” but as systemic violations of women’s rights. Enforcement agencies must be held accountable for discriminatory attitudes including pressuring women to “adjust,” advising reconciliation in abusive marriages, or threatening loss of child custody. Specialised gender desks in police

stations, staffed by trained personnel, can play a significant role in ensuring accessibility and sensitivity. Family courts must also move toward survivor-centric approaches, replacing reconciliation-driven processes with safety assessments, counselling, and preventive orders.

Cultural and community-level interventions are equally crucial. Honour, *izzat*, purity, and chastity must be reframed through public education campaigns that challenge patriarchal constructions of masculinity and femininity. Community-based dialogues, led by women's groups, social workers, teachers, and local leaders, can dismantle the myths that position women as carriers of family honour. It is vital to shift the burden of shame from survivors of violence to perpetrators, as done effectively during the anti-dowry campaigns, expanding such strategies to cases of honour killings, forced marriage, and sexual violence. Such community transformation efforts must be inclusive of rural, Dalit, Adivasi, and minority women, recognising their particular vulnerabilities to violence and social exclusion.

At the policy level, strengthening women's economic independence is key to dismantling patriarchal power structures. This requires expanding access to education, employment, land ownership, and credit, while ensuring social security and safe workplaces. Schools and colleges must incorporate gender studies and consent education, enabling young people to challenge gender stereotypes from an early age. Moreover, state and civil society must collaborate to support shelters, legal aid centres, and crisis intervention hotlines that assist women seeking safety and justice.

Finally, academic and feminist discourse must continue to emphasise women's agency alongside their victimization. Policies and interventions should treat women not as passive recipients of protection, but as active participants in reshaping their lives and communities. This means creating spaces for women's leadership in local governance, community monitoring committees, and law-reform initiatives. Any engagement with cultural practices must avoid the pitfalls of cultural essentialism: culture should be recognised as a factor influencing violence, but the primary focus must remain on gendered power relations. Only by approaching the issue holistically through law, institutions, culture, economics, and feminist activism can we

meaningfully challenge the structures that perpetuate honour-based violence and secure justice, dignity, and equality for all women.

5. CONCLUSION

Violence against women in India whether manifested through honour killings, dowry-related abuse, domestic violence, sexual assault, or the everyday regulation of women's lives cannot be understood in isolation from the patriarchal structures that shape gender relations. The analysis demonstrates that concepts such as honour, purity, *izzat*, and family reputation continue to operate as mechanisms through which women's bodies and choices are controlled, thereby reinforcing male dominance both within households and in society at large. Legal reforms inspired by feminist movements, including the anti-rape and anti-dowry campaigns, have achieved significant progress; yet they remain constrained by cultural assumptions and institutional biases that continue to prioritise familial stability and male authority over women's bodily autonomy and dignity. Moreover, the persistent reluctance of law enforcement and judicial actors to intervene in cases of domestic and sexual violence further entrenches the belief that such harms are private matters rather than human rights violations.

At the same time, the women's movement in India has shown that sustained collective action can challenge entrenched norms and reshape public discourse. By reframing violence as a systemic issue rather than an individual aberration, feminist activism has exposed the intersection of caste, class, religion, and gender in producing vulnerabilities for women. The movement's shift towards recognising women as agents, rather than passive victims, offers an important pathway forward one that locates resistance within women's lived realities while demanding accountability from families, communities, and the state. Ultimately, dismantling honour-based and gendered violence requires a reorientation of both cultural attitudes and institutional practices, grounded in the recognition of women's autonomy, equality, and full personhood. The struggle is far from over, but the trajectory of feminist advocacy demonstrates that transformative change is not only necessary but entirely possible.

6. BIBLIOGRAPHY

I. Books

- a) AGNES, FLAVIA, *PROTECTING WOMEN AGAINST VIOLENCE? REVIEW OF A DECADE OF LEGISLATION* (1992).
- b) BAXI, PRATIKSHA, *PUBLIC SECRETS OF LAW: RAPE TRIALS IN INDIA* (Oxford Univ. Press 2014).
- c) CHOWDHRY, PREM, *POLITICAL ECONOMY OF PRODUCTION AND REPRODUCTION: CASTE, CUSTOM AND COMMUNITY IN NORTH INDIA* (Oxford Univ. Press 2010).
- d) DURKHEIM, ÉMILE, *THE RULES OF SOCIOLOGICAL METHOD* (Univ. of Chi. Press 1938) (1895).
- e) GANGOLI, GEETANJALI, *INDIAN FEMINISM: LAW, PATRIARCHIES AND VIOLENCE IN INDIA* (Ashgate Publ'g Ltd. 2007).
- f) HORECK, TANYA, *PUBLIC RAPE: REPRESENTING VIOLATION IN FICTION AND FILM* (Routledge 2004).
- g) KAPUR, RATNA, *SUBVERSIVE SITES: FEMINIST ENGAGEMENTS WITH LAW IN INDIA* (Sage Publ'ns 1996).

- h) KISHWAR, MADHU, *OFF THE BEATEN TRACK: RETHINKING GENDER JUSTICE FOR INDIAN WOMEN* (Oxford Univ. Press 1999).
- i) MERRY, SALLY ENGLE, *HUMAN RIGHTS AND GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE* (Univ. of Chi. Press 2006).
- j) MENON, NIVEDITA, *SEEING LIKE A FEMINIST* (Zubaan 2013).

II. Journal Articles

- a) Akpinar, Aylin, The Honor/Shame Complex Revisited: Violence Against Women in the Migration Context, 26 WOMEN'S STUD. INT'L F. 425 (2003).
- b) Baxi, Pratiksha, Sexual Violence and Its Discontents: Rape Law Reform in India, 12 SOCIO-LEGAL REV. 41 (2016).
- c) Brems, Eva, Enemies or Allies? Feminism and Cultural Relativism as Dissident Voices in Human Rights Discourse, 19 HUM. RTS. Q. 148 (1997).
- d) Chakravarti, Uma, Gender, Caste and Labour: Ideological and Material Structure of Widowhood, 30 ECON. & POL. WKLY. 2248 (1995).
- e) Gill, Aisha K. & Samantha Walker, On Honour, Culture and Violence Against Women in Black and Minority Ethnic Communities, in *THE EMERALD HANDBOOK OF FEMINISM, CRIMINOLOGY AND SOCIAL CHANGE* 161 (Kate F. Gibbon et al. eds., Emerald Publ'g Ltd. 2020).
- f) Hossain, Sara & Lynn Welchman, Introduction, in *HONOUR: CRIMES, PARADIGMS, AND VIOLENCE AGAINST WOMEN* (Zed Books 2005).
- g) Kapur, Ratna, The Tragedy of Victimization Rhetoric: Resurrecting the "Native" Subject in International/Postcolonial Feminist Legal Politics, 15 HARV. HUM. RTS. J. 1 (2002).
- h) Menon, Nivedita, *Becoming a Feminist: An Introduction to Feminist Theory*, in *GENDER AND POLITICS IN INDIA* (Oxford Univ. Press 1999).
- i) Phadke, S., Thirty Years On: Women's Studies Reflect on Women's Movement, 38 ECON. & POL. WKLY. 4567 (2003).

- j) Rege, Sharmila, Dalit Women Talk Differently: A Critique of “Difference” and Towards a Dalit Feminist Standpoint, 33 ECON. & POL. WKLY. WS39 (1998).
- k) Siddiqi, Dina M., Of Consent and Contradiction: Forced Marriages in Bangladesh, in *HONOUR: CRIMES, PARADIGMS AND VIOLENCE AGAINST WOMEN* 291 (Lynn Welchman & Sara Hossain eds., Zed Books 2005).
- l) Vandello, Joseph A. & Dov Cohen, Male Honor and Female Fidelity: Implicit Cultural Scripts that Perpetuate Domestic Violence, 84 J. PERS. & SOC. PSYCHOL. 997 (2003).

III. Cases

- a) *Tukaram v. State of Maharashtra*, (1979) 2 SCC 143; AIR 1979 SC 185 (India).



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