

DOES INDIAN LAW AND FEMINISM DISCRIMINATE AGAINST MEN? - A COMPARATIVE STUDY (USA, UK, CANADA) IN RELATION TO DOMESTIC VIOLENCE AGAINST MEN IN INDIA

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Abstract

Fear of aging, rape, less physical strength, fear of being physically overpowered, economic dependency, greater parental pressure to marry and many more are various ways in which a woman experiences a greater sense of powerlessness than her male counterpart does. This is a fact, however, the question that also needs a concern is that do men always have the power or they too experience the feeling of powerlessness like women. The present paper is thus an endeavor to highlight the issue of domestic powerlessness of men because with the passage of time the Indian society has changed drastically and men too are now victims. No doubt women are still target of violence in our society; however, men too are being subject to domestic vindictiveness in India. The present Indian law and the philosophy of feminism ignore the issue of domestic violence of men. The paper will critically discuss this issue from the feminist and legal angles. It will also deal with various laws made in countries like Canada, U.K., U.S.A, on the present issue. The paper will conclude with some sub-monitions in relation to curbing violence against men in society and making them enjoy their fundamental right to equality.

Key words: *feminism, male obligations, reverse discrimination, domestic violence against men*

Male Obligations vs Female Entitlements: A damaging gap for an embryonic Indian society

Feminists call it sexism to refer to God as He; they don't call it sexism to refer to the Devil as He.

- Warren Farrell

Fear of aging, rape, less physical strength, fear of being physically overpowered, economic dependency, greater parental pressure to

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marry and many more are various ways in which a woman experiences a greater sense of powerlessness than her male counterpart does. This is a fact, however, the question that also needs an answer is that do men always have the power or they too experience the feeling of powerlessness like women. Many a times men do feel that they are spending their life working for people who hate them when their marriage become alimony payments, their home become their' wife's home and their children are turned against them. Thus, men have remained the ignored and the silent sex; increasingly becoming the suicide sex. One of the reasons for the increase of suicide rate¹ among men is that industrialized societies, feminist movements and the legal systems of these societies, like India have concluded that women have problems and only men are their problem. There is hardly any law or feminist movement which has demonstrated against the inequality being experienced by men or any other inequality that benefits women at the expense of men.² This male-female legal gap has created a psychological gap resulting in an equation of male obligations and female entitlements; a situation which is obviously not a healthy sign for an embryonic society. The present work is hence an attempt to study the socio-legal issue of adverse discrimination and violence being faced by men domestically; a vital critical issue of our social order, which is being supported and promoted by the legal order.

The canon of equality and reverse discrimination in India: In reference to bigoted domestic violence laws

Every society rests on the death of men.

- Oliver W. Holmes

'Equality is one of the magnificent corner-stones of Indian democracy.'³ The doctrine of equality before law is the necessary corollary of Rule of Law which pervades the Indian Constitution.⁴ Article 14 outlaws discrimination in a general way and guarantees equality before law to all persons. In the series of constitutional provisions, Article 14 is the most significant. It has been given a highly activist magnitude by the courts as well. Article 14 is the genus while Articles 15 and 16 are the species. These articles are constituents of a single code of constitutional guarantees supplementing each other. Article 15(3) constitute exception to Article

¹ Augustine J. Kposowa, "Marital Status and Suicide in the National Longitudinal Mortality Study" 54 *Journal of Epidemiology and Community Health* 256 (2000).

² Warren Farrell, Steven Svoboda, *Does Feminism Discriminate Against Men* 10-13 (Oxford University Press, Oxford, 2008).

³ *Indra Sawhney v. UOI*, AIR 1993 SC 477.

⁴ *Ashutosh Gupata v State of Rajasthan*, AIR 2002 SC 1533.

14 and 15 (1), (2) under which the state is not prevented from making any special provision for women and children. The basic purpose of Article 15(3) was to eliminate the socio-economic backwardness of women and to empower them in such a manner as to bring about effective equality between men and women. Thus, the objective of Article 15(3) was to strengthen and improve the status of women and not to degenerate the position of men; though with the passage of time reverse discrimination is being witnessed by the misuse of this constitutional provision. The superior position enjoyed by men in human society especially in society like India, makes one believe that they are not vulnerable. Men too are vulnerable and face various kinds of discrimination. In India many sexist practices are prevalent, which are against men. Some of them are fundamentally biased against men, others are subtle discrimination, which are enforced by the state and supported by the society. For example women get special reservation in panchayat, municipal elections, legislative assemblies and Parliament; there are various social security benefits given to widows, daughters, mothers, and sisters by governmental schemes and programmes but there are no such benefits for widowers, fathers, brothers, and sons; women get share in both parental and matrimonial properties unlike men; there are various State, National and International forums, organizations, commissions and ministries to protect the interests of females but none for males; the legal provisions like Section 497 and 498A IPC, Domestic Violence Act, 2005, are also discriminating men. Apart from these general provisions there are some specific provisions as well which deals with intimate partner violence; however most of them are discriminatory in nature and deals with the problem from the women's perspective only.

From generalities to specific laws: But are we moving towards right direction?

Domestic violence can be defined as manifestation of violence in the private space; it can take the form of physical, sexual, mental, psychological and economic abuse.⁵ It occurs when a family member, partner or ex-partner attempts to physically or psychologically dominate or harm the other. The term “intimate partner violence” is often used synonymously, and also include “wife beating”, “wife battering”, “man beating”, “husband battering”, “relationship violence”, “domestic abuse”, “spousal abuse”, and “family violence”⁶ etc. India is not an exception to the problem of perpetuating intimate partner violence. During pre-independence days there was no proper

⁵ Indira Jaising and Monica Sakhrani, *Law Of Domestic Violence* (Universal Law Publishing Co. Pvt, Delhi, 2007).

⁶ D.R. Suman Rai, *Law Relating To Protection of Women from Domestic Violence* 33-34 (Orient Publishing Company, Allahabad, 2008).

forum for victims, so only small number of cases and instances were reported. During this era the instances of matrimonial disputes between husband and wife were settled by panchayat so they remained unnoticed.

However, after independence *firstly*, Indian Penal Code 1860 (IPC), was adopted and in 1983, domestic violence was recognized as a specific criminal offence by the introduction of Section 498-A⁷ into this code. But unfortunately this amendment dealt with cruelty by a husband or his family towards a married woman and not vice versa, making the provision gender bias.

Secondly, The Hindu Marriage Act was enacted in 1955 and it deals specifically with problem of cruelty within matrimonial relationships amongst the Hindus. With the enactment of this act, cases of cruelty started coming before courts of law.⁸ Section 13(1) (i) (a) of act provide a relief to men and women to file a case of divorce on the ground of cruelty. The provision can also be used by men to have divorce from his spouse on the ground of cruelty, which can be mental as well physical cruelty.⁹ Unlike the above mentioned provision of IPC, the said provision of Hindu Marriage Act, 1955 is gender neutral and gives relief to husband from violent matrimonial relationship, by providing him a ground for divorce.

Thirdly, The Protection of Women from Domestic Violence Act, 2005 was passed and it deals with domestic violence against women, exclusively. It defines domestic violence and provides civil remedies for women facing domestic violence in the form of protection orders, residence orders, custody orders, monetary reliefs or compensation orders and makes the breach of protection orders punishable under act.¹⁰ Since this legislation completely deals with the women it is

⁷ Section 498-A, The Indian Penal Code 1860: Types of Cruelty Conduct that is likely to drive a woman to suicide; conduct which is likely to cause grave injury to the life, limb or health of the woman; harassment with the purpose of forcing the woman or her relatives to give some property; harassment because the woman or her relatives is unable to yield to demands for more money or does not give some property. The punishment under this section 498-A of Indian Penal Code 1860 is imprisonment for up to three years and a fine.

⁸ A.S. Arora, *Law on Cruelty against Husband* 2-3 (Kamal Publisher, New Delhi, 2010).

⁹ **Cases of Mental and Physical Cruelty Against Men:** Satyawati alias Savitri vs. Chandi Prasad 2005 (1) R.C.R.(Civil) 480; Salona Sharma alias Komal Sharma vs. Rajesh Sharma 2010(1)R.C.R.(Civil) 346; Sharda Nand Sharma vs. Kiran Sharma 11(1985)DMC 257; Mukesh Kumar vs. Chancha 2007(2) Marr. LJ 698; **Mental Cruelty** Dastane vs. Dastane 1976 SC 1534; Smt Rajni vs. Sanjay Kumar 2003 (1) HLR 580; Mitesh Navinbhai Bhatt vs. Parul M Bhatt D/O Chhelshanker Trivedi 2013(3) GLR 2085; Shanti Devi vs. Raghav Prakash 11(1985) DMC 85; Kishan Pal Singh vs. Bimla 1(1998) DMC 39.

¹⁰ Indira Jaising, Monica Sakhrani. *Laws Of Domestic Violence* 3 (Universal Law Publishing, Delhi, 2007).

considered as gender biased by many and there has been a demand for making it gender neutral. Apart from The Protection of Women from Domestic Violence Act, 2005, there are certain other provisions in different Indian legislations which need to be amended and made gender neutral. Some of them are briefly highlighted and India hence needs to consider it's these laws.

- Section 498A, IPC, being non-bailable, allows punishing the accused by imprisonment even before his guilt is established. This also goes against the Universal Declaration of Human Rights which states that everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law. Abused women need protection, but placing unconditional faith in the statements of a woman and confining the accused husband and his family in police or judicial custody, until bail is granted by a court, is not the justified way to accord protection to women.
- Section 497, IPC, the offence of adultery can be committed only by a male and not by a female, who cannot even be punished as an abettor is discriminating. The society had changed drastically since the inception of this provision. So taking into consideration present scenario the provision should either be repealed or should be amended as 'gender neutral' so that it is not misused by women.
- The assumption that victims of physical, verbal, emotional, sexual, and financial abuse are always women is wrong. Hence, the Domestic Violence Act, 2005, should be made gender neutral. The terms in 'husband' and 'wife' should be replaced with 'spouse'; 'men and 'women' with 'person'.
- The provisions relating to the offence of 'rape' under IPC, and other procedural laws should also be made neutral because various incidents show that in present times even men are subject to sexual harassments.
- The National Commission for Men should be formed on the lines of the commission that exists for women in India to settle the grievances and problems of men.

Glancing through the eyes of the world

If we desire a society of peace, then we cannot achieve such a society through violence. If we desire a society without discrimination, then we must not discriminate against anyone in the process of building this society.

- Bayard Rustin

Criminal justice practice requires a perpetrator and a victim, that's how the world is divided, so it is no surprise that bilaterally violent couples will be divided in this manner. Taking into consideration that not all women are victims and men as perpetrators, but it can happen vice versa as well, some countries took the issue of intimate partner violence beyond gender bias and framed neutral laws for their respective states. The proceeding part of the paper highlights provisions of these laws which can be used as beacon light for India for its legal transformation.

- **United States of America - State of California**

Under this law it is illegal to commit an assault, battery or criminal threat against anyone, but if the alleged victim is the finance, cohabitant, dating partner, California Domestic Violence laws make the allegations much more serious. Almost every district attorney's office in California has special unit dedicated to the prosecuting domestic violence cases. They usually proceed with the case even if the accused 'recants' or insists that he/she does not want to press charges. The Domestic Violence of California makes it illegal to use physical force or to communicate threats of harm against an intimate partner. Some of the common domestic violence crimes under the California state laws on domestic violence are briefly discussed.

- Penal Code 273.5pc Corporal Injury to a Spouse or Cohabitant: This Penal Code makes it illegal to inflict a 'corporal injury', against spouse or cohabitant resulting in a 'traumatic condition'. A person connotes this crime by striking his/her intimate partner in some violent way and causing a visible injury, even a slight one such as swelling or bruises. The California Domestic Violence Law can be charged even if the alleged victim is a current or a former spouse or cohabitant or the parent of child.
- Penal Code 422pc Criminal Threats: The provision makes it criminal to communicate a threat of serious harm to someone if you intent to put person in fear and you actually do to put the person in sustained fear. Criminal Threat may be charged as a misdemeanor or felony, under this provision.
- Penal Code 591pc Damaging a Telephone Line: This law makes it a crime to cut or otherwise damage a phone line /phone equipment. In domestic incidents, there are frequently allegations that the defendant damaged phone equipment in order to prevent the alleged victim from making a phone call. This provision may be charged as a misdemeanor or a felony.

- Penal Code 647 (j) (4) pc Revenge Porn: While not traditionally thought of a domestic violence crimes, certain forms of cyber-harassment are increasingly charged nowadays along with Domestic Violence Crimes in the state. One can be accused of this offence if he/she intentionally distributes sexual photos of another person, with the intent to cause him/her emotional distress.
- Penal Code 653.2 pc Posting Harmful Information on Internet: This is relatively new offense which constitutes of posting of harmful information about someone on internet or sending such information in an email message, with the intent to incite other people to harass him/her. It is charged against people who attempt to use the internet to get revenge on the party in a domestic dispute.¹¹

- **United States of America - State of Washington D.C.**

Domestic Violence in the District of Columbia is known as intra family violence. It means an act punishable as criminal offense, such as an assault, committed or threatened to be committed against a person to whom the offender is related by blood, adoption, legal custody, marriage or domestic partnership. The definition also included situations where the offender and victim have a child in common. Sec 16-1001, Code of District of Columbia defines interpersonal violence, intimate partner violence and intra family offense.¹² Resident of District of Columbia who is victims of intra family violence can obtain civil protective orders, from the court for their rescue.¹³

¹¹ For further information visit: < http://www.shouselaw.com/domestic_abuse.html> referred on 14 March 2016 2.30 pm.

¹² **(6) 'Interpersonal Violence'** means an act punishable as a criminal offense that is committed or threatened to be committed by an offender upon a person: (1) With whom the offender shares or has shared a mutual residence; or (2) Who is or was married to, in a domestic partnership with, divorced or separated from, or in a romantic, dating, or sexual relationship with another person who is or was married to, in a domestic partnership with, divorced or separated from, or in a romantic, dating, or sexual relationship with the offender.**(7) 'Intimate partner violence'** means an act punishable as a criminal offense that is committed or threatened to be committed by an offender upon a person:(1) To whom the offender is or was married(2) With whom the offender is or was in a domestic partnership; or(3) With whom the offender is or was in a romantic, dating, or sexual relationship.**(8) 'Intra family offense'** means interpersonal, intimate partner, or intra family violence.

¹³ For further information visit: <<http://www.semmes.com/publications/cases/2011/12/civil-protection.asp>> referred on 2 April 2016, 3.37pm.

- **United States of America - State of New York**

New York State defines Domestic Violence as a pattern of coercive tactics, which includes physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over victims.¹⁴ In order to facilitate domestic violence victim have access to protective and prosecutorial resources. New York Family Courts and Criminal Court have concurrent jurisdiction over family offenses such as assault, sexual misconduct or abuse, stalking, menacing and strangulation. As a result, victims of Domestic Violence may bring civil charges in family court, criminal changes in criminal court, or simultaneous actions in both courts. Victims may also apply for an order of protection from either court, including an order that the defendant should stay away from the victim and the children involved. Although New York criminal law doesn't differentiate between domestic violence related crimes and other offenses, it nonetheless criminalizes several violent acts which may occur between spouses, former spouses, parent and child or members of same household in an intimate relationship. An aggressor may be convicted of assault depending on the physical harm he or she intends to inflict as well as the actual harm suffered by victim. Family offenses such as those described above face a wide range of penalties under New York Law.¹⁵

- **United Kingdom**

Under the laws of United Kingdom there are both civil and criminal remedies for victims of domestic violence Section76 of the Serious

¹⁴ For Further information visit: < <http://www.nycourts.gov/topics/domesticViolence.shtml>> referred on 21March 2016 9.03.pm.

¹⁵ Conviction of a violent felony offense such as first-degree assault will impose a sentence of 5 to 25 years in prison or a fine of up to \$5,000. First-degree strangulation - another violent felony offense - will result in imprisonment of 3.5 to 15 years or a similar fine of up to \$5,000. Offenses including third-degree assault, second-degree menacing, and criminal obstruction of breathing or blood circulation are classified as class A misdemeanours, and thereby punishable by imprisonment of less than one year or a fine of up to \$1,000. For more information visit <<http://statelaws.findlaw.com/new-york-law/new-york-domestic-violence-laws.html>> referred on 22 March 2016.9.04pm.

Crime Act 2015¹⁶ came into force in December 2015 and criminalizes patterns of coercive or controlling behaviour where they are perpetrated against an intimate partner or family member. A number of other criminal offences can apply to cases of domestic violence - these can range from murder, rape and manslaughter through assault and threatening behaviour. The civil law remedies include non-molestation orders¹⁷, occupation orders¹⁸ and domestic violence protection orders.¹⁹

¹⁶ **Controlling or coercive behaviour in an intimate or family relationship:**(1) A person A commits an offence if— (a)A repeatedly or continuously engages in behaviour towards another person B that is controlling or coercive, (b) at the time of the behaviour, A and B are personally connected, (c) the behaviour has a serious effect on B, and (d)A knows or ought to know that the behaviour will have a serious effect on B. **(2)** A and B are “personally connected” if— (a)A is in an intimate personal relationship with B, or (b)A and B live together and(i) they are members of the same family, or (ii)they have previously been in an intimate personal relationship with each other. **(3)** But A does not commit an offence under this section if at the time of the behaviour in question— (a)A has responsibility for B, for the purposes of Part 1 of the Children and Young Persons Act1933 (see section 17 of that Act), and (b)B is under 16. **(4)** A’s behaviour has a “serious effect” on B if— (a)it causes B to fear, on at least two occasions, that violence will be used against B, or (b)it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities. **(5)** For the purposes of subsection (1)(d) A “ought to know” that which a reasonable person in possession of the same information would know. **(6)** For the purposes of subsection (2)(b)(i) A and B are members of the same family if— (a)they are, or have been, married to each other; (b)they are, or have been, civil partners of each other; (c)they are relatives; (d)they have agreed to marry one another (whether or not the agreement has been terminated); (e)they have entered into a civil partnership agreement (whether or not the agreement has been terminated); (f)they are both parents of the same child; (g)they have, or have had, parental responsibility for the same child. **(7)** In subsection (6)— “civil partnership agreement” has the meaning given by section 73 of the Civil Partnership Act2004; “child” means a person under the age of 18 years; “parental responsibility” has the same meaning as in the Children Act 1989; “relative” has the meaning given by section 63(1) of the Family Law Act 1996. **(8)** In proceedings for an offence under this section it is a defense for A to show that— (a)in engaging in the behaviour in question, A believed that he or she was acting in B’s best interests, and (b)the behaviour was in all the circumstances reasonable. **(9)** A is to be taken to have shown the facts mentioned in subsection (8) if (a) sufficient evidence of the facts is adduced to raise an issue with respect to them, and (b)the contrary is no proved beyond reasonable doubt. **(10)**The defense in subsection (8) is not available to A in relation to behaviour that causes B to fear that violence will be used against B. **(11)** A person guilty of an offence under this section is liable— (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both (b)on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine and both For further information refer <<http://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted>>. Referred on 22 March 2016. 9.41 am.

¹⁷ **Non-Molestation Order** is a court order which prohibits an abuser from molesting another person they are associated with. Molestation is not defined in the Act but has been interpreted to include violence, harassment and threatening behaviour. An order contains specific terms as to what conduct is

- **Canada**

In Canada there is no specific offence relating to family violence in the Criminal Code, most acts of family violence are general crimes in Canada. The legal provisions can be divided in to three broad categories i.e., The General Criminal Law Provisions, Specific Law Provisions and Domestic Violence Provisions state wise.

1. The General Criminal Law Provisions: it is divided in to two categories physical, sexual and psychological.
 - Physical and Sexual Violence: The offences related to the use of physical and sexual violence are: assault (causing bodily harm, with weapon and aggravated assault),²⁰ Kidnapping and forcible confinement,²¹ trafficking in persons,²² homicide–murder, manslaughter,²³ sexual assault (causing bodily harm, with a weapon and aggravated sexual assault,²⁴ sexual offences against children and youth.²⁵
 - Psychological Violence: The offences related to forms of psychological or emotional abuse within the family involve using

prohibited and can last for however long is deemed appropriate by the court. Breach of a non-molestation order is a criminal offence For further information refer John Woodhouse and Noel Dempsey, “Domestic Violence In England and Wales” 6637HOCL 9 (2016).

¹⁸ **Occupation Order** is a court order which governs the occupation of a family home. It can be used to temporarily exclude an abuser from the home and surrounding area and give the victim the right to enter or remain. In certain circumstances, the court may attach a power of arrest to the occupation order. For further information refer John Woodhouse and Noel Dempsey, “Domestic Violence In England and Wales” 6637 HOCL 9 (2016).

¹⁹ **Domestic Violence Protection Orders (DVPOs)** were rolled out across England and Wales from March 2014.¹³ Under the DVPO scheme, the police and magistrates can, in the immediate aftermath of a domestic violence incident, ban a perpetrator from returning to their home and from having contact with the victim for up to 28 days. The scheme comprises an initial temporary notice (domestic violence protection notice, DVPN), authorized by a senior police officer and issued to the perpetrator by the police, followed by a DVPO that can last from 14 to 28 days, imposed at the magistrates’ court. DVPOs are designed to help victims who may otherwise have had to flee their home, giving them the space and time to access support and consider their options.¹⁴ DVPOs were piloted in three police force areas in 2011/12. According to a Home Office evaluation, DVPOs were generally seen positively by practitioners and victim-survivors and were associated with reduction in re-victimization, particularly when used in ‘chronic’ cases.” For further information refer John Woodhouse and Noel Dempsey, “Domestic Violence in England and Wales” 6637HOCL 10 (2016).

²⁰ Sec. 265-268 Criminal Code, 1985.

²¹ Sec. 279 of Criminal Code, 1985.

²² Sec. 279.01 Criminal Code, 1985.

²³ Sec. 229-231 and 235 Criminal Code, 1985.

²⁴ Sec. 271-273 Criminal Code, 1985.

²⁵ Secs. 151,152,153,155 and 170-172 Criminal Code, 1985.

words or actions to control, isolate, intimidate or dehumanize someone such as: Criminal harassment (sometimes called stalking),²⁶ uttering threats,²⁷ making indecent and harassing phone calls²⁸, trespassing at night,²⁹ mischief.³⁰ Offences related to neglect within family such as: failure to provide necessities of life,³¹ abandoning child,³² criminal negligence (including negligence causing bodily harm and death).³³

2. **Specific Provisions:** The Criminal Code also contains a number of special provisions that serve to protect victims. When charges relating to family violence have been laid, criminal courts have a wide range of powers to release or detain an accused person. They can provide for release conditions such as "no contact" until the trial.³⁴ Even where no offence has been committed yet, where personal injury or damage is feared, courts can also order peace bonds, which require an individual to agree to specific conditions to keep the peace.³⁵ Special consideration is given to the harm that comes from family violence. Because of the nature of the harm, sentencing provisions of the Criminal Code³⁶ make it an "aggravating factor" for sentencing purposes when the offence involves abuse of a spouse or common law partner, abuse of a person under the age of 18 or abuse of a position of trust or authority.
3. **Domestic Violence Provisions State Wise:** The Provincial/Territorial Governments make laws in areas relating to family violence of their own jurisdiction. The six provinces (Alberta, Nova Scotia, Prince Edward Island, Newfoundland and Labrador and Saskatchewan) and three territories (Yukon and Nunavut) have proclaimed specific legislation on family violence. The definition of family violence differs in every state act;³⁷

²⁶ Sec. 264 Criminal Code, 1985.

²⁷ Sec. 264.1 Criminal Code, 1985.

²⁸ Sec. 372 Criminal Code, 1985.

²⁹ Sec. 177 Criminal Code, 1985.

³⁰ Sec. 430 Criminal Code, 1985.

³¹ Sec. 215 Criminal Code, 1985.

³² Sec. 218 Criminal Code, 1985.

³³ Sec. 219-221 Criminal Code, 1985.

³⁴ Sec. 515 Criminal Code, 1985.

³⁵ Sec. 810 Criminal Code, 1985.

³⁶ Sec. 718.2 Criminal Code, 1985.

³⁷ Definition of the Family Violence: Alberta: Protection Against Family Violence Section 1(e); Newfoundland and Labrador: Family Violence Protection Act Section 3; Nova Scotia: Domestic Intervention Act Section 5; Prince Edward Island: Saskatchewan: The Victims Of interpersonal Violence Act Section 2; Yukon Family Violence Protection Act Section 1 In Nunavut Family Abuse Intervention Act: Section 2 For further information refer <<http://www>.

however, all the definitions are gender neutral and gives equal rights to both the parties in a matrimonial dispute.

4. These civil statutes are designed to complement the protections in the Criminal Code. They offer further protection to victims of family violence. Civil measures provided include emergency intervention orders³⁸ which grant the right for only the victim to remain in the home and use the family vehicle. They may also restrain the abuser from communicating with or contacting the victim or members of the victim's family. These orders are same in the all state and territories act.³⁹

In India, intimate partner violence is often framed as a 'woman issue' generating the perception of males involved in violent relationships as the aggressor and more capable of inflicting injury or causing harm to their partner. Due to this set of beliefs called 'gender paradigm', male victims are often met with disbelief or suspicion when they attempt to gain protection from female partner, or access services. Male victims may also report difficulty in locating services specific to their needs, as help lines or shelters are targeted exclusively towards female victims.⁴⁰ To overcome these lacunas, India should also amend its laws and make them gender neutral laws as most of the above discussed countries have primed. India is a developing country and the Indian society in transforming rapidly, taking into consideration the rapid growth, India needs to amend its laws according to the changing needs and requirements of society so that its misuse could be minimized and actual purposes could be achieved.

Do we need men's studies because feminism discriminates against men? - Towards gender transition studies

The weakness of Men is their façade of strength, the strength of women is their façade of weakness.

- Lawrence Diggs

Women's studies courses are the seeds from which the forest of feminism has grown. Women's studies help us create heroes and role models out of women who deviated from their traditional role, women

justice.gc.ca/eng/cj-jp/fv-vf/laws-lois.html referred on 22 March 2016, 1.28 pm.

³⁸ Sections 4 of the Yukon: Family Violence Prevention Act, Section 4 of Prince Edward Island: Victims of Family Violence Act, Section 3 of Saskatchewan: The Victims of Interpersonal Violence Act, Section 7 Nunavut Family Abuse Intervention Act, Section 2 Alberta: Protection Against Family Violence.

³⁹ For Further Information Visit: <<http://www.justice.gc.ca/eng/cj-jp/fv-vf/laws-lois.html>> referred on 22March 2016, 1.28 pm.

⁴⁰ Donald G. Dutton, Katherine R. White, "Male Victims of Domestic Violence, New Male Studies", Vol. 2, Issue 1, An International Journal pp5-17(2013).

whom society did not highlight, but made invisible. As such, it offers women options in place of invisibility, inspiration in place of ridicule. That is one of many reasons women's studies exists and one of many reasons it is important. In contrast there are virtually no men's study courses. The few which are labelled as such are rare genuine men's studies', but feminist men's studies. These courses tell men how they can forfeit power, are less abusive towards women, share the housework etc. Moreover, in feminist studies, women's disadvantages are often seen as men's fault; in feminist men's studies, men's disadvantages are seen as men's fault. Women's studies in its current form are not women's studies, its feminist studies. Genuine women's studies would involve the views of not just liberal women, but also of conservative women. Every study of gender should include four perspectives: those of both liberal and conservative women and those of both liberal and conservative men.⁴¹ Gender studies now studies only liberal women's view of women's powerlessness and liberal women's perspective on male power. It doesn't look at liberal or conservative men's view of male powerlessness or liberal or conservative men's view of female power. As a result of the inattention to male powerlessness and female power, men are ignorant about their powerlessness and female power; men are as ignorant about their own powerlessness and female power as women in 1950s were about their own powerlessness and male power. And as a result, men today are psychologically about where women were in 1950s. The last half century has not been a battle of the sexes, but a war in which only one side has shown up. Men have put their heads in the sand and hoped the bullets will miss. The less sense this makes now, the more you need genuine men's studies.⁴²

Women's studies are necessary to help women see clear alternatives to traditional roles; men's studies are necessary to help men see clearer alternatives to traditional roles. Men's studies are currently needed more than women's studies exactly because men's role has become less questioned. History books, by celebrating men only when they perform, trap men into stereotyped roles even more than they trap women, because when we celebrate and appreciate someone for playing a role, we are really bribing them to keep playing that role. Appreciation keeps the slave a slave. Men's studies are not for men only. It would help both sexes understand dad; why dads are so often afraid to express feelings; why when dad becomes eighty five, he is more than thirteen times as likely to commit suicide as mom; why he is more likely to suffer from problems with alcoholism and gambling;

⁴¹ Warren Farrell, Steven Svoboda, *Does Feminism Discriminate Against Men*, 8-9 (Oxford University Press, Oxford, 2008).

⁴² Young American Foundation, *Comedy and Tragedy: College Course Descriptions and what They tell us about Higher Education today, 1998-99* (Herndon, VA: YAF, 1998).

why after divorce, he often feels the children have been turned against him and the courts have turned him into a wallet.⁴³ As half of the children's genes are their dad's genes, as men studies helps students understand their dads, it also helps them to understand the half of themselves that is their dads. Men's studies helps both sexes understand all the problems men deal with as a result of a heritage that made men able to be loved and respected only if they were able to kill animals, kill in war etc. Hence, without men's studies, gender studies misunderstand not just gender but also women. Men's study is not the opposite of women's studies. It does not say women had rights and men did not. It explains that that none of our grandparents had rights- they had responsibilities and obligations. Making money was not about male power and privilege, but about male obligations and responsibilities. Men who fulfilled their responsibilities most effectively received female love. Men who failed received female contempt. Men's studies explains why, in the past, the dominant force was neither men nor women, but the need to survive- and why the oppressor was neither men nor women, but the fear of starvation.⁴⁴

The solution to this is that there should be neither a women's movement nor a men's movement, but a gender transition movement. This kind of movement would help both the sexes make the transition from our genetic heritage to rigid roles to our genetic future to more flexible roles. The goal of men and women studies should be gender transition studies. This study is the preparation of the sexes to change together and to replace mistrust with empathy. So feminists should be the strongest supporters of men's studies because ultimately the change in women's roles gets stalled when men's don't also change.

Introspection necessitated

Feminism is not just about women; it is about letting all people lead fuller lives.

- Jane Fonda

Law making in democracies is seldom a cut and dried process. Public policy is a messy business full of compromises and concessions to the prevailing public sentiments and expectations. The laws that emerge out of this churn further go a gestation period where they are assimilated into a legal system and social practice. Given this complex relationship between law and society, it stands to reason

⁴³ Warren Farrell, Steven Svoboda, *Does Feminism Discriminate Against Men* 3-13 (Oxford University Press, Oxford, 2008).

⁴⁴ Lawrence Diggs, "Sexual Abuse of Men by Women", *Transitions*, 10 November/December (1990).

that laws must be enacted with great care and must be amended or repealed with even greater care.⁴⁵ The present deliberation over intimate partner violence demands that changes must be brought in the context of the present prevailing situation in the country. Various international studies⁴⁶ prove that there is most of the time hidden and ignored side of domestic violence. One reason that intimate partner violence towards men is underestimated is that men are less likely to view it as a crime or report to the police. Historically, men who were victims of assault by their wives were made into objects of social derision, a practice in medieval Europe called Charivari that involved riding the victim around town, seated backward on a donkey and punching his genitals. Due to these kinds of traditions and mind set, men are socialized in such a way that they bury their problems under a private veil.⁴⁷ This also includes being abused by their female partners. It's not the case that these assaults are inconsequential but male concept of socialization diminishes the likelihood of reaching out for help.

Men are certainly not the diabolic monsters, and women not the angelic creatures that hold the monopoly of victimhood. The damage they cause to their partners, unfortunately remains hidden and more so is excused, justified, and even glorified; these kind of practice needs to be considered seriously. We need to understand that men too are victims and women too are perpetrators, neither sex has a monopoly of vice or virtue. Unfortunately, feminist aggression and male tolerance and respect for females corroborated in creating a situation where maleness is disregarded, bashed, and trivialized and female victimhood is justified, promoted, and supported, for the benefit of domestic violence industry, which obviously is in the hands of feminists.⁴⁸ This does not mean that women are not the victims of domestic violence, they are, but the issue in consideration is that protective discrimination for women is gradually leading to adverse discrimination against men which needs to be considered and must

⁴⁵ Sudhanshu Sarangi, Abinav Kumar, "Before Amending the Law" *The Indian Express*, 9th September, 2016, Chandigarh, p.15.

⁴⁶ R.McDonald, E.N. Jouriles, C.D.Tart, L.C.Minze, "Children's Adjustment Problems in families Characterized by men's Severe Violence Towards Violence. Does Other Family Violence Matter?" Vol.33 *Child Abuse and Neglect* 94-101(2009); J.Stets, M.A.Straus, "Gender Differences in Reporting Martial Violence and its Medical and Psychological Consequences" in M.A. Straus & R.J. Gelles (eds.), *Physical Violence in American Families* 151-166 (Transaction Publishers, New Brunswick, NJ, 1992); T. Davidson, "Wife Beating: A Recurring Phenomenon Throughout History" in M.Roy (eds.), *Battered Women: A Psychological Study of Domestic Violence* 1-23 (Van Nostrand, New York, NY, 1977).

⁴⁷ Donald G. Dutton, Katherine R. White, "Male Victims of Domestic Violence, New Male Studies" Vol. 2, Issue 18 an International Journal 8(2013).

⁴⁸ Ann Lewis, Sotirios Sarantakos, "Domestic Violence and Male Victims" Vol.3.12, *Nuance* pp.3-15(2001).

be overall evaluated for the society to run smoothly. Moreover, there is a discrepancy between legal policy and the manner in which it is implemented. It is difficult for the disempowered men to realize that they can also be oppressed part of society. The members of the society needs to understand that the unacknowledged policies framed by our legislators are because of the perception that women are an oppressed class since time immemorial and hence needs protective laws. Over the past many years, the focus and the public attention has shifted from couples to women. This is most obvious in the area of intimate partner violence where public interest and concern has almost exclusively focused on women, leading to feminization of domestic violence and implying an invisibility of male victims.⁴⁹ It is time that we all need to introspect on the issue of gender equality and reverse discrimination as Warren Farrell rightly quoted:

‘We’re all in the male-female boat together; if women are paddling on the left side and men on the right, and a woman says she wants freedom to paddle on the right; the man had better learn the value of paddling on the left or the boat soon will be unable to steer clear of something that will sink it.

When either sex “wins,’ both sexes lose.



⁴⁹ S. Sarantakos, “Husband Abuse: Fact or Fiction?” Vol. 34, No. 3, Australian Journal of Social Issues pp. 231-252.