

# SUBALTERNITY OF WOMEN AND DOMESTIC VIOLENCE AGAINST THEM IN TAMILNADU

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## ABSTRACT

It is quite appropriate to have discussion at this juncture upon an important theme like this. In public forums and through media a substantial part of Indian society speaks outwardly about the right to live outside of institutional systems. Who are such interested groups in claiming this radical liberty? What it would impact on the rest? What should be the role of sovereign state in political procedure to cope up with this change? These queries are very spontaneous while reflect upon today's 'family' in India. Is that the multiculturalism a template frame to analyse the fact? Is the multiculturalism capable of providing any constructive alternatives for the recent phenomenon that is changes in the family system? This paper consists two parts one is the theoretical framework and second is analysis part of the problem. Slightly theoretical interpretation has been made in the first part. Qualitative and Quantitative tools are used for data analysis in the second part. The hypothesis is verified by the analysis and interpretation. The hypothesis is that in a fast growing urban set ups in Tamilnadu young men and women those who are exposed to cosmopolitan multiculturalism are become victim of domestic violence's by which they end up with 'alternative family institutions'.

**KEY WORDS:** domestic violence, cosmopolitanism, discrimination, transnational citizens, human rights.

## Multiculturalism in India

As any ideology has various dimensions after its creation multiculturalism also has various approaches but all revolving around its core function. For example U.S.A's multiculturalism is disintegrated multiculturalism whereas the Canada, Sweden, and French multiculturalisms are integrated one. But both are ideologically from common source. Before the explanation to Indian type of multiculturalism I would invite you the genre here to revisit the popular notion of the concept of 'culture'. Until recent past it has been related with a social group rather to practice as individualistic. This recent development in such understanding demands one to have focused approach on each aspects of culture before blind generalization. For example the notion of western and non-western, we have number of cultures within western hemisphere and in the eastern side. Indian citizens are understood with single identity outside India, but in India it is not so. Indians are divided into many cultures based on different parameters. The point is that within a locale in

amicro level community the prevailing culture is not monoculture but it is a multicultural one. Hence the idea of unique culture is non-existential even in any historical contexts. India along with its neighbours is identified for normative pluralistic society, and Indian multiculturalism is inherently difference from others. There has been a record about a community in Germany which is considered unique for some time. That communal based culture disappeared during the course of transitions made by the contact of other cultures<sup>1</sup>.

India is also a disintegrated multicultural society across its historical past mainly in terms of gender equality and caste structure. The two logical divisions of this political procedure like that of the recent U.S. Aareto just practice discrimination against a section of human kind. The idea that women are ineffective in public sphere but suitable to home because of their biological characters has been deeply rooted in all developed cultures in India. This idea is simply juxtaposed with a new idea called 'Political Public Sphere' (Habermas) in India which is not redundant against new cultures. This juxtapositioning seems to be contradictory. That's why Indian multiculturalism is naturally a disintegrated one. However, the essential quality of social dynamism prevails in such situation. Besides this cultural underpinning, presently in the neo-globalised world the state institutionalism not only in India but elsewhere witnesses change or resistance. Democratic structures are radicalized and the democracy itself is contested. This radicalism supports cultural pluralisation of the society and cosmopolitanism.

Then, what is the problem of Indian multiculturalism? Though India's multiculturalism and The U.S's multiculturalism is same variety in one forms in other they are not so. In the west, multiculturalism emerged after democratization. In the non-western countries the multicultural societies existed before the onset of democracy. The western model of multiculturalism or the already mentioned U.S.A's disintegrated multiculturalism has three important bases which cannot be easily translated into non-western societies. The pre-settler population in the U.S, the non-minority structures in Western Europe, and the nature of immigrant group in Europe as well as the U.S had forced these countries to be constitutionally multicultural. But despite the naturally arranged multicultural form in some of the non-western societies the recent problems of majoritarian and minoritarian issue and gender equality question often caused conflict.

This conflicting nature particularly in the post colonial context of India and China made them to be resistant to multicultural federalism or multinational federalism<sup>2</sup>. U.S multiculturalism and European multiculturalism are capable of practicing multicultural federalism and multinational federalism<sup>3</sup> in their politics. The persistent socio-cultural character of India faces critics by neo-liberal political community. After 1991 there is a slow and steady growth of cosmopolitan structures which at present have reached a quantum maxima and results with an advantageous socio-cultural space for that neo-liberals. The uproar is

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<sup>1</sup> Prof. Rajesh Rajagopalan ( JNU, Delhi) lecture on Realism in IITM on 30<sup>th</sup> June 2010.

<sup>2</sup> Prof. Delanty's (Sussex University, London) lecture on Multiculturalism in IITM on 1<sup>st</sup> July 2010

<sup>3</sup> The whole idea of European union as a single state.

that majority of Indian population is one way or the other conservative and not ready for mutual interactions and learning<sup>4</sup>. They do understand the multiculturalism or the cosmopolitanism is negative, opposes a common public culture and having no confidence over the positive contributions of all groups. In other side the minority (read neo-liberals) in terms of population, be it economic, educational, or cultural they adhered 'radical cosmopolitan multiculturalism'. This radical cosmopolitanism which envisages immediate acceptance often becomes victim for cultural fundamentalism. For example the cultural cosmopolitan's (e.g. international tourists) outlooks and their behavior are resisted by the neo-conservatism's. In India several rape and murder incidents perpetrated against such tourists because of resistance to cultural cosmopolitanism. And in western countries the Indians are meted out with wanton violations on human dignity because of the rejection to inclusiveness. This sort of social common sense (Edward, Rudolf) not only exists across the social structures but also within a unit of the structure.

The very introduction of Multinational economic activities from 1991 onwards in the developing countries concomitantly effected with the onslaught of multicultural forms (this intermingling of western and non-western cultures is different from the one after colonial contact) in Indian social structures. The centrality of this new idea is 'hybridity'<sup>5</sup>. The cultural confluences or that hybrid variety has not influenced the people symmetrically or the influence is not understood in a same way by across the social groups or family. Also the understanding about the new idea differs among social groups and individual alike. Here I insist my earlier statement about revisiting the notion of 'Culture' itself. It differs among individuals and so also within a group. There is no culturally homogeneous society.

This subjective aspect (read post modern) of Indian multiculturalism becomes a wrong force in hitherto culturally conservative yet multicultural society to aggravate social discrepancies particularly the gender violence, caste clashes and communal upheavals. Subjectivism proved failure as an alternative to discriminations and rather become binary for social constructivism. But the normative critique of multiculturalism which is that of 'cultural pluralism'<sup>6</sup> can be an effective tool in managing this issue. Compliance to majoritarian and minoritarian (read sectarian) idea without resistance by the competitive less, inconsistent, subjective metaphors is ideal to cultural pluralism. But then a long term conservative society is suitable for only this cultural pluralism. This is where the neo-liberals breed. India is a culturally pluralistic society but not suitable to liberal multiculturalism. So the society is intrinsically dynamic but disaggregated.

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<sup>4</sup> Ibid

<sup>5</sup> Prof. Delanty, (Sussex university, London) lecture on Cosmopolitanism.

<sup>6</sup> Cultural pluralism- different cultures exist on the basis of majoritarian and minoritarian idea. Multi culturalism is opposite to sectarian ideas.

## Gender and Multiculturalism

The subjective approach to culture is more effective among different gender groups. It starts from taking decision to join as a group, learning the relationships, language and styles or customs and practices and ends with living together where the socialization process get completed and an cultural identity is formed. In this process the role of individual is important. Because, an individual's experience with outside culture impacts the system of his/her own. This role also being carried out with the imprints of local tradition (read enculturation). Local tradition differs among various societies. For example the U.S.A's multicultural form provided space for women rights from the dawn of 20<sup>th</sup> century. In Europe idea of secularism emerged at 18<sup>th</sup> century itself. In India Sati has been practiced until the part of 20<sup>th</sup> century. These sort of traditional aspects have been internalized by individuals depending upon their gender status and other identities in their respective societies. Unlike the western societies in non-western cultures the gender psychology has been a self-indicted and wrongly sanctified one because of the enculturation in which women rarely enjoyed self esteem.

Despite the prevalent of complex gender psycho status but more or less indigenously arranged social conditions in pre-colonial India men and women in this erstwhile colony lived in subdued status. The idea of nationalism, freedom rights which are very important for identity formation at crucial stage of national appraisal and after that are not same to women folk as it was for men. The scar of this historical wound blinks in although the post-colonial contexts. Quite new phase came into fore after 1995 in India for women to touch the limits of men in various fields. This change happened in the half of the society, redefined the nature of the system itself. Both the gender are relieved from their traditional set ups and diverged with variant thought process. This is not equivalent to the 20<sup>th</sup> century western form of modernity. Indian thought process at present is very unique. Hence attachment to multiculturalism is not same to every Indian culture in general and for men and women in particular.

## Multiculturalism and Domestic Violence

I have taken 'cosmopolitan multiculturalism' as a model to discuss the issue of domestic violence in Tamilnadu. The reason is that majority of domestic violence occurs in urban centers since they have been exposed to a sort of mutation caused by active international mobilization of resources. Particularly the institution of family has been challenged by such intrusions. This incidence in urban culture poses a threat to family welfare and the idea of family is getting redefined. But in the rural places where multiculturalism is prevalent but not the cosmopolitan multiculturalism domestic violence incidences do not affect or rarely affects the institution-family. Unfortunately, including the rural migrants to urban centers faces some self contradicting situations. It happens so by the wrong perception and unscientific interpretation on

cosmopolitanism. Cosmopolitanism opposes the utilization of the institution of family as a tool to perpetrate the domestic violence.

The type of incidence under the domestic violence category differs between rural and urban societies. In a rural set up, in many instances victims of domestic violence don't complain because of the fear about family wreckage<sup>7</sup>. In a recent survey by the WHO in Tamil-Nadu on Domestic Violence, 60 percent of senior executives said that domestic violence, which limits women's workplace participation, has an adverse effect on company productivity. The survey found that domestic violence victims lose nearly 8 million days of paid work per year the equivalent of 32,000 full-time jobs<sup>8</sup>. Harmful traditional practices, which are most common in Tamilnadu, are forms of violence that have been committed against women in certain communities for so long that they are considered part of accepted cultural practice. These violations include female genital mutilation or cutting (FGM), dowry murder, so-called "honor killings," and early marriage. They lead to death, disability, physical and psychological harm for millions of women annually.

Not only women but girls of around 5years are also part of this violence against women. In Jambumadai, a remote village in Trichy district .This lies in a backward area of this districts where no river is there but depends on rain for its every crop. Here, a traditional practice of burying a girl till neck is followed on the day of solar eclipse. It's a myth here that if a girl is buried on the day of solar eclipse from the time eclipse starts till it end, then all types of mental and physical problem a girl is having will be cured. Sometimes, girls do die due to improper flow of oxygen taking place by the time when she is buried. These types of traditional practices of playing with the life of girls should be stopped. Female genital mutilation refers to several types of deeply-rooted traditional cutting operations performed on women and girls. Often part of fertility or coming-of-age rituals. This FGM is sometimes justified as a way to ensure chastity and genital "purity." It is estimated that FGM, mainly practiced in the indigenous groups of Villupuram and other backward districts of Tamil-Nadu. Since the late 1980s, opposition to FGM and efforts to combat the practice has increased. According to the recent survey made by an NGO in April 2006, most of the places where FGM is prevalent made it an offence under criminal law<sup>9</sup>. Another issue is that the practice of early marriage which is a common practice prevailing in the villages of Tamil-Nadu. This is a form of sexual violence, since young girls are often forced into the marriage and into sexual relations, which jeopardizes their health, raises their risk of exposure to HIV/AIDS and limits their chance of attending school.

Parents and families often justify child marriages by claiming it ensures a better future for their daughters. Parents and families marry off their younger daughters as a means of gaining economic security and status

<sup>7</sup>DeepaMathur, 1992, Women, Family, and Work, Rawat Publication. pp 143-145

<sup>8</sup> The Hindu, 24 Feb, 2009, Chennai

<sup>9</sup> The Hindu, 14<sup>th</sup> may 2009, Chennai

for themselves as well as for their daughters. Insecurity, conflict and societal crises also support early marriage. A marriage ceremony scheduled on 29 Aug 2009 was stopped following the timely intervention of district collector P.AMUDHA on Saturday (28 Aug). According to the information and public relation sources, the collector received secret information about the marriage of the 14 Year old girl of Kadathur and an Asthagiriyyur youth. A team of officials rushed to Kadathur and found the arrangements for marriage in full swing. When the officials verified the records, they found that the bride was a 10th standard student born on 1995. The officials advised the parents not to conduct ceremony. Also, as per the collector's direction the marriage was stopped. The collector also warned parents against trying to marry off their daughters below 18 years of age<sup>10</sup>. Limited availability of services, stigma and fear prevent women from seeking assistance and redress. This has been confirmed by a study published by the WHO in 2005 on the basis of data collected from 24,000 women in all regions of Tamil-Nadu, between 55 percent and 95 percent of women who had been physically abused by their partners had never contacted NGOs, shelters or the police for help<sup>11</sup>.

These violence's, however as a traditional practice do not destruct the faith upon the institution of the victims family. But in the urban societies the response to domestic violence is immediate and practical. It is the symbolic product of cosmopolitan exposures.

#### IPC crimes mega cities<sup>12</sup> of Tamilnadu –Percentage distribution during 2009

Incidents	Percentage	
	Rural	Urban
Cruelty by husband and relatives	14.0	86.0
Sexual Harassment in family	20.3	79.7
Dowry death	8.8	91.2

Source: www.gov.tn.in

This statistic made with the comparison between the major cities and the rest of Tamilnadu. So population difference can't be a consideration but the cultural variable must be an important consideration in analyzing the data. Domestic violence, occurs when the family relationships become incompatible due to social exposure. Individuals often contemplate while taking position on needs and motivations<sup>13</sup>. When the needs are not fulfilled they take revenge upon the victim. This has been a strong reason for all sort of domestic violence's. In the neo-globalised urban societies chances had become very high for both men and

<sup>10</sup>The Hindu 30<sup>th</sup> Aug 2009, Chennai

<sup>11</sup> Ibid

<sup>12</sup> Statistics related to Chennai, Coimbatore and Madurai

<sup>13</sup> John J. Maconis, 1996, Society the Basics, New Jersey.

women to face such contemplations. The traditionalists and socialists invariably bothered about yet visible outside forces which create a manufactured space for such contemplations. The problem of domestic violence itself have come to another dimension is which both men and women are equally become victim of it.

In a worrying trend, the number of couples seeking divorce is on the rise in the erstwhile conservative city of Chennai with younger generation, particularly the stress-prone IT professionals, breaking marriages even on trivial issues. Collapse of joint family system, economic independence, fast paced lifestyle and ego wars coupled with lack of conflict management skills were often the reasons behind divorces. Adding even a wrong choice of shirt or colour of sari can now tear asunder the matrimonial ties. Ravi Chandran, a divorce lawyer, said<sup>14</sup> there were instances when couples seek to end their marriage on petty issues. "One of my clients sought divorce because his wife always declined to cook fish". On reasons why more IT people are going for a divorce early in their married life, he said, as IT field is a brain-taxing competitive job, the professionals get into emotional problems, which reflect on their marital life. Somasekaran, an activist-advocate, said the IT revolution has changed the way in which the younger generation looks at the institution of marriage. Influenced by Western culture rightly available in the cosmopolitan city Chennai, they perceive marriage as a matter of convenience, he opined.

Chennai High Court (in fact the family court records) substantiates the fact that the increase of divorce cases. The number of divorce cases registered in the city family courts had increased to 3,874 in 2007 from 3,374 cases in 2006. Last year, the dowry and divorce cases had crossed the 4,000 mark, family court sources said. More alarming is the fact that nearly 50 per cent of those seeking divorce are below 35 years of age. About 40 per cent of the divorce cases filed in Chennai was by professionals in the IT/ITES sector and the people from the film industry<sup>15</sup>.

Many family torture leads to loss of mental balance, disfiguration, loss of health. Women are made to strive and work like animal round the clock. Recently in Chennai 25 year old Sri Laxmi working in the call center has been sexually assaulted by her colleague. She had accompanied her 27 year old colleague Rajesh trainer of the victim, a city based call center employee to his friend's house where she was offered a drink supposedly spiked with date rape drug. Date rape drug refers to any drug that can be used to assist in the commission of sexual assault. These drugs commonly have hypnotic, dissociative, amnesiac effects and when used to facilitate rape are often added with drinks/food without the victim's knowledge<sup>16</sup>. These sexual harassment (rape cases) cases are much frequent in Tamil-Nadu and all over India too.

<sup>14</sup> Vijay T.V interview on 27<sup>th</sup> Jan 2010, Chennai

<sup>15</sup> The Hindu, 14<sup>th</sup> Jan 2009, Chennai

<sup>16</sup> CIOL new report, rape case in BPO, 5<sup>th</sup> August 2008.

Another data reveals the heart rendering incidents in which mainly women are victims. In the marital offences bride burning is more prevalent in urban centers. Statistics from the Kilpauk Medical College centre for burns in Tamilnadu bear out their concern. For the year 2008 alone, the center handled a whopping 1,277 cases of fatal burns, of which 68% (869) were female victims. And these were cases from only Chennai city and adjoining districts like Thiruvallur, Kancheepuram and Chengalpet. Then how can only 57 cases be registered for an entire state of 31 districts according to a doctor in that centre. Less than 5% of burn incidents occur because of dowry problem. Abetment of suicide forms more than 50% of the incident and the rest are suicidal caused by domestic violence's. According to official crime statistics in Tamil-Nadu, 618 women were killed in 2002 as a result of such violence. It is surprising to note that the number of cases of harassment of women declined substantially in Chennai in 2006 as compared to 2004 and 2005, but there is a marginal increase in the dowry death<sup>17</sup>.

These days' men, women and children are driven to extreme action with the slightest of provocations. People are socially aware but culturally pragmatic. The disturbing reality in many homes is this family violence, emotional, physical or sexual abuse of one family member by another. A researcher from the U.S Richard J. Gelles characterizes the U.S family as "the most violent group in society with the exception of the police". We know about the U.S that majority of population lives in urban set ups. This U.S multicultural form of society is not far from Chennai's multicultural form in terms of number of domestic violence incidents. These incidents lead the society to a new stage where counter productive forms emerge to reframe the traditional ideas. Presently one parent families are not new to Chennai. Much research points to the conclusion that growing up in a one parent family disadvantages children. Some studies suggest that a father and a mother each make a distinctive contribution to a child's social development. Such children are also more likely to become single parents themselves. Next is the Cohabitation practice. This is steadily increasing in Chennai city. Gay and Lesbian couples is also emerges as a counter measure to family problems. Singlehood can be another counter product of misinterpreted cosmopolitan multiculturalism.

### **Criticism on the Protection of Women from Domestic Violence Act 2005**

The Protection of Women from Domestic Violence Act 2005 was brought into force by the Indian government from October 26, 2006. The Act was passed by the Parliament in August 2005 and assented to by the President on 13 September, 2005. As of November 2007, it has been ratified by four of twenty-eight state governments in India; namely Andhra Pradesh, Tamil Nadu, Uttar Pradesh and Orissa<sup>18</sup>. In spite of the

<sup>17</sup> The Hindu, 2<sup>nd</sup> March 2007, Chennai.

<sup>18</sup> [www.google.com](http://www.google.com) (domestic violence laws in India)

availability of this legal safeguard, of about 8,000 criminal cases registered all over India under this act, Rajasthan had 3440 cases; Kerala had 1,028 cases, while Punjab had 172 cases registered.

Tamilnadu falls seventh among Indian states in domestic violence incidents and its number is higher than the national average. However, according to a social activist “the Act is an extremely progressive one not only because it recognizes women who are in a live in relationship but also extends protection to other women in the household, including sisters and mothers. Thus the Act includes relations of consanguinity, marriage, or through relationships in the nature of marriage, adoption, or joint family. Hence 'domestic relationships' are not restricted to the marital context alone”<sup>19</sup>. In fact the Act has given a new dimension to the word abuse because unlike the primitive notion ‘abuse’ includes actual abuse or threat of abuse, whether physical, sexual, verbal, economic and harassment by way of dowry demands.

Female members of a family can be charged under the Domestic Violence Act in case of harassment of a woman, a Delhi court has said. The order assumes importance in the wake of raging debate that whether the law enacted for the welfare of women can be used against them or not, as different High Courts have expressed different opinion. Additional Sessions Judge Kamini Lau, while giving an interpretation of the provisions for protection of women in the Domestic Violence Act, 2005, said the law provided that a wife can file complaint against her husband and his relatives who include both males and females. "Section 2 Clause (q) of the Act which provides that 'an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner, the provision includes both male and females," the judge said. The judge, however, noted that different High Courts have taken conflicting views on the issue of whether the female members of a family can be covered under the Domestic Violence Act or not.

### **Human Rights Perspectives**

The discourse of human rights and the mechanisms in place to protect and enforce rights embodied in international documents suggest a way in which a legal standard of minimal protection might be recognized as mandatory for the maintenance of human dignity and thus, the entitlement of all human beings (Miller 1998). Like other models for achieving justice and equality in society however, the human rights framework has its critics, the most prominent of which, in recent years, has been the women's movement. How can international human rights instruments and the treaty bodies established under them be made relevant to individual men and women when so many acts of violence were being perpetrated by private individuals independent of the State? In the past, a State could only be held responsible for acts committed on its behalf or through one or more of its agents (Halliday 2001). Indeed the development of human rights movement, right from the Universal Declaration of Human Rights, and the three generations of rights show that rights

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<sup>19</sup> Ibid

are defined as 'belonging to all human beings' irrespective of gender and other identities. However, though international law is gender neutral in theory, in practice it constituted men and women into separate spheres of existence--public and private, respectively. Thus men exist as public, legal entities that enjoy civil and political rights and in a way define the nature of rights discourse. Women's existence, on the other hand, is "privatized", thus, seen as existing outside the purview of the state's obligation.

Moreover the economic and social context of its (laws) application has not been considered seriously by both the governmental and at the same time non-governmental organizations, all over the world. Harms suffered by men and women at the hands of private individuals or within the family have been placed outside of the conceptual framework of international human rights. Recently, the concept of state's responsibility has expanded to include not only the abuse directly committed by itself or by its agents, but also state's systematic failure to prosecute the actions committed by its agents or the private individuals. This implies that though the state or its agents may not be responsible for the acts of violence, its failure to prosecute the abuse was held as amounting to complicity in it.

## Conclusion

Whether it is Domestic violence Act 2005 or Human Rights laws, for the successful implementation of any legal procedures through the yeomen services of local and international organizations, people across the world countries must be taught on the 'Liberal Political Cosmopolitanism' rather making a sort of 'Post Sovereign States' and thus 'Transnational Citizens' for whatever the reason without identical cultures.

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