
INVISIBLE BRUISES: CRIMINALIZING EMOTIONAL ABUSE IN RELATIONSHIPS

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ABSTRACT

“Invisible bruises,” emotional abuse in relationships is common and largely ignored compared to physical abuse where the impact is visible and easy to detect according to the laws of the land; while physical abuse occurs through visible acts like beating or assault, emotional abuse involves psychological manipulation, coercive actions, degrading comments and behavior, and controlling tendencies. The results of such behavior could be evident in cases involving anxiety, depression, psychological disorders, or confusion and low self-esteem.

Emotional abuse is still poorly acknowledged both in society and by law because of its abstract nature and the problems involved in demonstrating its existence.

This research aims to determine whether emotional abuse ought to be criminalized as a distinct crime in India. Emotional abuse violates basic human rights, namely the right to dignity, sound mental health, and the individual’s freedom, thereby necessitating stringent legal measures.

However, there are also some shortcomings associated with the criminalization of the conduct in question, including issues of subjectivity, evidentiary challenges, vague definitions, and potential misuse of the legal provision.

The analysis of foreign legal systems, specifically the United Kingdom, where emotional abuse has been criminalized through the enactment of the Coercive and Controlling Behavior legislation, suggests considering the conduct in question as a pattern of behavior rather than an isolated act. Additionally, the paper recommends the need for legislation that defines abuse, evidence requirements, and process safeguards in order to secure justice.

In summary, the paper recommends a moderate and organized way that treats emotional abuse as an issue that must receive attention legally but without over-legalization and arbitrary application. It is therefore argued that

emotional abuse should be handled through not only legal measures but also increased social sensitization.

Legal measures cannot be able to address the complexity involved in cases of human relations and emotional/psychological abuse.

Keywords: Emotional Abuse, Coercive Control, Mental Cruelty, Criminalization, Evidence Challenges, Human Dignity, Intimate Relationships.

1. Introduction

The conventional understanding of violence under the law was confined to physical violence as an act that caused obvious harm to the victim. This understanding has guided the development of principles of law as well as societal attitudes to treat the issue of violence from the perspective of physical abuse in intimate relations. The legal system that handles visible injuries is more capable of addressing acts that can be objectively measured and medically proven.

But the limitation in the above approach is that it ignores the complex forms of abuse, including psychological abuse targeting the victim emotionally. Emotional abuse is an under-appreciated but destructive form of violence. Emotional abuse is unlike physical abuse in terms of causing marks or scars on the body; hence, it is difficult to spot, prove, document, and address by conventional means in legal jurisdictions.

Patterns of conduct such as belittling, manipulating, threatening, isolating, and controlling behavior aimed at destroying someone's dignity, self-respect, autonomy, and emotional balance are considered emotional abuse. The problem with such behaviors is that they have been normalized in the relationship; hence, they are not easy to spot. The truth is that "invisible bruises are the correct phrase that refers to emotional abuse. They are not visible physically, but they occur in one's mind, and they cause much emotional pain."

Victims of emotional abuse may experience intense emotional suffering characterized by anxiety, depression, stress, and post-traumatic stress disorders. They find their plight being overlooked or simply ignored because there is no physical proof. Such invisibility leaves victims with their plight unheard and unaddressed by anyone.

There have been amendments regarding emotional abuse recognition and handling in India

after the enactment of the Protection of Women from Domestic Violence Act of 2005. Thus, despite the success of recognizing emotional abuse under the Protection of Women from Domestic Violence Act, 2005, as an important milestone towards acknowledging abuse that does not have a physical aspect, it should be recognized that it is not a criminal legislation per se. Furthermore, one may raise the issue of whether this legislation corresponds to the modern notion of violence.

The purpose of this paper is to study the problem of emotional abuse as a stand-alone crime under the Indian laws. This paper considers problems concerning definition of emotional abuse; highlights drawbacks in current legislation; and analyses benefits and risks of criminalization of emotional abuse.

2. Conceptualization of Emotional Abuse

Due to the complexity, convolutions, and indefiniteness of abuse within the sphere, which refers to the broad range of emotional abuse, the definition of which may be quite flexible depending on circumstances, emotional abuse cannot be perceived solely by emotionally abusive behavior. Emotional abuse is a rather broad and vague term and encompasses numerous potential behaviors that are very much dependent upon context, the relationship, and the cultural monitoring of the act of abuse. Physical abuse is overt and occurs in sporadic events; emotional abuse is insidious, repetitive, and cumulative.

Overall, the phenomenon of emotional abuse is based on behavior. The concept does not deal with one case only, rather it relies on a series of actions over time resulting in an extended feeling of fear, dependence, or humiliation. Thus, it is very difficult to diagnose because each individual act alone looks insignificant and may be acceptable in society. For instance, any form of criticism or disagreements within a relationship may be deemed as acceptable, however, if there are repeated attacks in this area, it turns into abuse.

Verbal assaults, criticism, humiliation, intimidation, and control are among the most prevalent forms of emotional abuse. Other subtle methods include gaslighting, which makes the abused believe that his or her own perception is flawed and unreliable. Such manipulation is especially powerful since it directly affects the perception of the individual regarding him- or herself, creating an emotional connection between the two. This is besides the isolation from the individual by limiting access to friends and loved ones or even any sources of income in order

to make the victim more susceptible. The consequences of emotional abuse do not stop at initial psychological disturbance; emotional abuse may have serious psychological repercussions for the individual.

Most of the time, the effects of the emotional abuse lead to the gradual destruction of identity and increased dependence on the perpetrator for validation and decision-making. Emotional abuse coupled with another form of abuse is usually more severe or sometimes even more devastating compared to physical abuse alone. Moreover, emotional abuse is commonly associated with the presence of other forms of abuse, creating a vicious circle of

dominance. The issue regarding the social and cultural acceptance of emotional abuse presents a challenge when it comes to identifying and addressing this kind of abuse, making it essential to establish a solid definition and framework for emotional abuse.

3. Legal Framework in India

3.1 Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was an important milestone in the evolution of Indian laws where the definition of domestic violence was expanded to encompass not just physical abuse but also verbal, emotional, and economic abuse. This modification in the law recognizes the damage in intimate relationships to extend beyond physical hurt but rather involves psychological and emotional damage as well. According to PWDVA, emotional abuse includes insults, belittling, humiliation, name-calling, and threatening. The civil remedies include protection orders, right to residence, financial assistance, and custody. There are several civil remedies available under the law, including protection orders, residency rights, financial assistance, custody orders, and others.

Nevertheless, as mentioned earlier, the Act is a civil one, and therefore, its efficiency will have its limits. For example, it does not impose criminal liability in case of psychological abuse, unless it concerns a violation of the court order. This lack of punitive measures diminishes the impact of the Act as a deterrence tool, allowing the abusers to continue their behavior.

3.2 Section 498A of the Indian Penal Code

The cruelty committed by the husband or the members of his family, which also includes

emotional acts, falls under section 498A of the Indian Penal Code. The inclusion of psychological abuse under the definition of cruelty proves the recognition of mental pain inflicted upon another person during marriage. Nonetheless, this provision suffers from numerous drawbacks. Firstly, it is only applicable to married women. Secondly, there must be a high level of harm caused, meaning the act or conduct may lead to suicide or grievous injury. It would also mean the inability to enforce the law in matters involving emotional abuse without meeting those conditions. Thirdly, there is no clear-cut definition of what qualifies as emotional abuse under the provision, leading to interpretive challenges.

3.3 Judicial Interpretation

The Indian judiciary has made substantial contributions in defining cruelty as including psychological or emotional maltreatment. It has been found that mental harm is equally harmful as physical injury and may be sought for legal remedy. The problem lies in the absence of a statutory definition of the act, resulting in varying interpretations. This can be seen in each instance, where the decision differs according to the point of view of the judge. Therefore, judicial discretion plays an important role in determining whether the abuse is cruel.

4. The Argument for Criminalization

The argument for criminalizing emotional abuse relies on the knowledge that psychological abuse is harmful and capable of causing harm that could linger on. The argument for the criminalization of emotional abuse is premised on the fact that psychology is serious harm and it can take long before any damage can be inflicted. Therefore, criminalization of emotional abuse will have a symbolic meaning in terms of sending a clear signal that emotional abuse is a public affair, hence requiring intervention by society. Criminalization of emotional abuse will also mean that individuals will be punished for being abusive, preventing others from being abused in the future. Victims will feel validated since their sufferings are considered to be quite serious.

5. Obstacles to Criminalization

Although there are good reasons for criminalizing emotional abuse, various obstacles must be overcome. Evidence is among the major hurdles that must be taken care of. Evidence is difficult to come by in cases of emotional abuse. There is always a possibility that issues relating to

reliability and fairness could emerge if testimonial evidence and circumstantial evidence only are involved. Furthermore, the definition of emotional abuse faces problems in relation to subjectivity. The definition of emotional abuse has some ambiguity that leads to arbitrary interpretations and applications of the law. It may lead to inconsistent application of the law since what may be considered abuse in one case will not necessarily be regarded as such in another case. In addition, there could be a danger of misusing the legal framework in the absence of proper measures. As a result, there may be false allegations and legitimate claims being ignored.

6. Comparative Approaches

Some nations such as the United Kingdom have made substantial efforts to criminalize emotional abuse through coercive and controlling behavior laws. Criminalizing emotional abuse in this case emphasizes that abuse builds up. Therefore, there are lessons for India regarding how to define abuse and the proper evidence needed. There is need to strike a balance in order to prevent unjust outcomes for either the victim or the defendant.

7. Towards a Balanced Approach

The approach toward criminalization of emotional abuse should include a statutory definition that is clear enough while at the same time capturing the definition of emotional abuse. Moreover, it should adopt the pattern approach. Guidelines for evidence need to be created to facilitate the courts in determining the psychological damage caused, where the testimony of an expert witness is crucial. There should be similar emphasis laid on preventing emotional abuse.

8. Conclusion

Emotional abuse is a highly damaging form of violence that remains unrecognized and cannot be addressed by conventional justice. It is difficult to detect due to its intangible character, and its repercussions are long-lasting. Although there have been attempts at recognizing the problem in India within civil laws, the lack of criminalization has led to insufficient legislation. Nevertheless, criminalizing emotional abuse could help overcome the existing problem.

However, caution must be taken in criminalizing emotional abuse as it entails clearly defining emotional abuse, setting up criteria to establish reliable evidence and implementing safeguards

that guard against the abuse of the said laws and avoid making the laws themselves counter-productive. Unfortunately, legislation alone will not suffice in addressing the issue of emotional abuse. Criminalizing emotional abuse through law cannot succeed without cultural reforms since emotional abuse is rooted in deep-seated traditions and culture that allow abuse to take place by dehumanizing its effects and making light of abusive behaviors. Only the demolition of such cultural beliefs and practices can make an effective impact on the matter.

In addition, awareness, education and sensitivity towards emotional abuse must go hand-in-hand with the implementation of laws in order to have a more holistic approach. Ultimately, acknowledging emotional abuse and making laws regarding the same is not simply about extending the scope of what is considered an abuse of one's rights but reiterating that everyone has a right to be respected and dignified in their interpersonal relationships.

A balanced approach is necessary in ensuring that "invisible bruises" are taken into account by law and that something can actually be done about them.

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