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Gender, Violence and Society in India: A Comparative Analysis of the Shah Jahan Period and Contemporary India

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Abstract

Gender violence is not confined to a single historical period. Its forms, social justifications, legal treatment, and mechanisms of redress change with institutions, while patriarchal relations may persist in altered forms. This paper compares gender violence during the reign of Mughal emperor Shah Jahan (1628–1658) with contemporary India. It examines marriage, child marriage, sati, purdah, economic dependence, domestic violence, sexual violence, and control over women's mobility, while also considering the agency of elite Mughal women such as Jahanara Begum. The comparison avoids treating the seventeenth century as a simple earlier version of modern India and instead emphasizes historically specific meanings of consent, family authority, honour, property, and legal personhood. Contemporary India is examined through its constitutional framework, statutory protections, and available evidence on spousal violence. The study argues that substantial transformations have occurred in women's legal status, citizenship, education, public participation, and access to remedies, but that legal change has not eliminated gendered power inequalities. The comparison therefore reveals both historical continuities and major institutional transformations.

Keywords: *Shah Jahan, Mughal India, gender violence, women, patriarchy, purdah, sati, domestic violence, contemporary India, women's rights*

Introduction

Gender violence is one of the most persistent forms of inequality in human societies. It includes physical, sexual, psychological, economic, and structural forms of harm directed at individuals because of gender or sustained through gendered systems of power. Although contemporary discussions often associate gender violence with domestic abuse, rape, sexual harassment, dowry-related violence, trafficking, and violence against women in public spaces, its historical forms were frequently embedded in marriage, kinship, inheritance, widowhood, religious custom, social hierarchy, and political authority.

A historical examination of gender violence is therefore important because it demonstrates that violence against women cannot be understood exclusively as the result of individual criminal behaviour. Social institutions may normalize unequal relationships and make certain forms of coercion appear legitimate. At the same time, historical analysis must avoid assuming that all societies of the past operated according to identical concepts of gender, consent, individual rights, or violence. The meanings attached to marriage, sexuality, family authority, widowhood, honour, and women's work were historically specific.

This paper compares gender violence during the reign of Shah Jahan with contemporary India. Shah Jahan ruled the Mughal Empire from 1628 to 1658, a period associated with imperial expansion, architectural achievements, courtly culture, and the consolidation of Mughal political institutions. It was also a period in which gender relations were shaped by hierarchical family structures, religious and customary norms, class and caste distinctions, and the political organization of the imperial household. The contemporary period, by contrast, is characterized by constitutional equality, democratic citizenship, statutory protections, women's education and employment, mass media, civil-society organizations, and formal institutions of criminal

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justice. The legal vocabulary has changed dramatically. Violence that might once have been treated primarily as a family, caste, community, or customary matter is now increasingly recognized as a violation of individual rights and, in many circumstances, a criminal offence.

Yet the existence of modern laws does not mean that gender violence has disappeared. Official Indian health data show continuing levels of spousal violence. The Government of India's summary of NFHS-5 reports that around 29% of ever-married women aged 18–49 had experienced physical or sexual violence by their husbands. The contemporary situation therefore requires a distinction between formal equality and lived equality.

The central question of this paper is consequently not whether women were "more oppressed" during Shah Jahan's reign or whether contemporary India is "better" in an overall sense. Such a simple ranking would obscure the complexities of both periods.

The paper examines the various forms of gendered control and violence that existed during the Shah Jahan period and explores how these practices were supported, regulated, or challenged by social and legal institutions. It also examines the forms of gender-based violence present in contemporary India and analyses how concepts such as consent, bodily autonomy, marriage, property, and legal protection have changed over time. Furthermore, the paper identifies the structures that demonstrate continuity between the two periods and those that represent significant historical transformations. Finally, it considers the methodological challenges historians face when comparing a seventeenth-century society with a twenty-first-century society.

Here the idea is that these two periods show both continuity and change. Patriarchal power, control of women's sexuality, domestic inequality and the social pressures of marriage and respectability are all rooted deep in history. But modern India has also witnessed radical improvements in the legal status, education, economic engagement, political citizenship and access to institutional remedies of women. The parallel, then, should not be read as a straight path of "oppression" to "freedom" but as a history of shifting institutions of power.

2. Conceptualizing Gender Violence Historically

Before comparing the two periods, it is necessary to clarify what is meant by gender violence.

In contemporary scholarship, gender-based violence generally refers to violence directed against an individual because of gender or violence that disproportionately affects a particular gender. It includes physical violence, sexual violence, psychological abuse, economic deprivation, coercive control, forced marriage, trafficking, and other forms of gendered harm.

However, applying a contemporary concept directly to the seventeenth century creates methodological difficulties. Shah Jahan's subjects did not necessarily understand marriage, sexuality, privacy, individual autonomy, or domestic authority through the same conceptual framework used in contemporary India. For example, the modern idea that marriage does not eliminate an individual's bodily autonomy is embedded in contemporary human-rights discourse. A seventeenth-century legal and social order generally operated with different assumptions about household authority.

Historical comparison must therefore distinguish between the existence of harmful practices and the categories through which those practices were understood.

This is particularly important in relation to women. A historical source might describe a practice as a "custom," "discipline," "honour," "religious duty," or "family matter," whereas contemporary law might classify comparable conduct as physical, sexual, psychological, or economic abuse.

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Shadab Bano's research on Mughal India is particularly relevant here. Her study argues that domestic and public violence against women had a long history in India and examines how Hindu and Muslim legal traditions and their interpretations could justify or constrain physical restrictions and violence against women.

This does not mean that all Muslim or Hindu communities treated women identically, nor that religious texts automatically produced violent behaviour. Rather, law, custom, social hierarchy, family structures, and local practice interacted in complex ways.

A second methodological problem concerns sources. Much of what is known about elite Mughal women comes from court chronicles, autobiographical writings, biographies, administrative materials, and European travel accounts. These sources disproportionately represent elite households. The lives of peasant, artisan, labouring, enslaved, and other non-elite women are much less visible.

This creates an important limitation. The experience of a Mughal princess cannot be taken as representative of the experience of an ordinary rural woman. Similarly, contemporary national statistics aggregate enormous differences of class, caste, region, religion, age, disability, sexuality, education, and economic status.

Consequently, the comparison must remain attentive to social differentiation.

3. Historical Context: Shah Jahan and Seventeenth-Century Mughal Society

Shah Jahan ascended the Mughal throne in 1628 and ruled until 1658. His reign represented a mature phase of Mughal imperial power. The empire possessed extensive administrative institutions, a highly developed court culture, substantial urban centres, and a complex aristocratic elite.

Gender relations within this society were shaped by several overlapping systems:

- patriarchy within the household;
- kinship and lineage;
- caste and community practices;
- Islamic law and its interpretations;
- Hindu customary and religious traditions;
- class and economic status;
- imperial politics;
- marriage alliances;
- concepts of family honour and female sexuality.

It would therefore be misleading to speak of "the position of women" as though all women experienced Mughal society in the same way.

The Mughal imperial household itself demonstrates this diversity. Recent scholarship emphasizes that women of the Mughal court could participate in political, economic, diplomatic, religious, and cultural activities. Lisa Balabanlilar's work argues that imperial women should not be viewed as passive actors in political marriages. They could be political counselors, ambassadors, patrons, traders and players in the operation of the state.

The case of Jahanara Begum is of special importance. Jahanara was the eldest surviving daughter of Shah Jahan, and after the death of her mother Mumtaz Mahal in 1631 she was in a position of influence in the imperial household. Her status illustrates that not all women were barred from attaining significant political and economic influence by the gender hierarchy.

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This seeming contradiction is crucial to understanding gender relations in the Mughal period. It was possible for a community to restrict the movement of women and strengthen patriarchal family authority while at the same time permitting some women, especially women of aristocratic class, to wield considerable power.

The contrast between gendered subordination and individual agency is consequently important.

4. Women and the Mughal Household

The Mughal household, particularly the imperial zenana, has frequently been represented in popular literature as a secluded space in which women were imprisoned and controlled. Contemporary scholarship has challenged this simplified picture.

Research on Mughal gender history notes that earlier scholarship, influenced partly by Orientalist interpretations and European travel narratives, often portrayed the harem primarily as an institution of female confinement. More recent historians have emphasized that the zenana could also be a site of political authority, economic management, patronage, diplomacy, and social organization.

This revision does not mean that seclusion should be dismissed as harmless. Rather, it demonstrates that restriction and agency could coexist.

Elite women could exercise authority from within gender-segregated spaces. They could manage estates, control financial resources, commission buildings, support religious institutions, arrange marriages, maintain political relationships, and participate in courtly politics.

This creates an important distinction between:

physical mobility and political agency.

A woman might have limited freedom of movement but considerable influence within a particular social network.

At the same time, the ability of elite women to exercise authority should not be generalized to all women. Economic privilege could significantly alter the consequences of gender restrictions. A princess with servants, property, political connections, and access to the imperial court lived under very different conditions from a rural agricultural labourer.

The zenana therefore should be understood neither as simply a "prison" nor as a space of complete female freedom. It was a gendered institution whose functions included both seclusion and political participation.

5. Marriage and Gendered Power During the Shah Jahan Period

Gender interactions were structured around key institutions, one of which being marriage.

Marriage in Mughal society could have economic, political, familial and social functions. Marriage connections could connect strong families and strengthen political bonds among elites. Thus women's marriages might have more distant dynastic consequences.

Marriage was as important for common women but usually offered less prospects for political power.

Marriage also gave rise to institutions of dependence. Women's economic security could be directly related to spouses and families. The power of male household members may affect decisions concerning location, sexuality, reproduction, job and family connections.

Islamic jurisprudence included the notion of marriage as a social contract, and Muslim women had some recognized legal rights including rights over mahr and inheritance. But the existence of statutory rights did not always imply their effective exercise.

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Hindu communities have also varied systems of marriage, inheritance, widowhood, caste regulation and customary law. Practices varied widely according on area, caste and social standing.

The important historical point is that formal rules and actual experience were not one and the same.

Gender violence might develop if societal power gave husbands, families, community authorities or other actors the opportunity to wield coercive control over women.

6. Child Marriage and the Vulnerability of Young Women

Child marriage represents an important point of comparison between early modern and contemporary India.

Historical scholarship has demonstrated that marriage involving girls at very young ages existed in different regions and communities of India. Padma Anagol's research on the history of child marriage emphasizes the relationship between patriarchal norms, early marriage, and the sexual vulnerability of child brides and young women. Her work specifically examines early modern and modern Indian contexts.

The vulnerability of child brides was multidimensional.

A young bride could face:

- early sexual exposure;
- pregnancy at a young age;
- limited educational opportunities;
- dependence upon marital families;
- restricted ability to leave abusive relationships;
- economic dependency;
- social pressure to conform to marital expectations.

The historical category of childhood itself also requires careful treatment. Modern legal definitions of childhood are different from seventeenth-century social understandings.

Nevertheless, the comparison reveals an important structural continuity: when girls are placed in marital relationships before acquiring economic, educational, and social independence, their capacity to resist coercion is weakened.

Contemporary Indian law has explicitly attempted to address this problem. The Government of India's lists the Prohibition of Child Marriage Act, 2006 among India's principal women-related laws.

The modern legal framework therefore differs fundamentally from the seventeenth-century context.

7. Sati, Widowhood, and Gendered Violence

Sati occupies a particularly important place in discussions of gender violence in Mughal India.

Sati involved the immolation of a widow on her deceased husband's funeral pyre. Historical evidence demonstrates that the practice existed in different communities and regions, but its frequency, meaning, and degree of coercion varied.

It is particularly important not to treat every instance of sati as identical. Some historical accounts describe women as choosing to participate, while other accounts describe pressure or coercion.

This distinction has generated substantial historical debate because the question of "choice" cannot be separated from social conditions. A widow facing severe stigma, economic insecurity, restrictions on

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remarriage, and social pressure could formally consent to an act without that consent necessarily resembling modern ideas of free and autonomous choice.

Historical evidence also indicates that Mughal authorities sometimes attempted to regulate sati. Accounts associated with European travellers describe cases in which official permission was required and efforts were made to persuade widows not to perform sati.

The evidence therefore does not support a simplistic claim that the Mughal state either uniformly encouraged or uniformly prohibited sati.

Shadab Bano's research similarly identifies sati as an important example of the ways in which gendered violence could be both socially sanctioned and subject to attempts at regulation.

The comparison with contemporary India is especially striking. Sati is now prohibited under Indian law, and the Commission of Sati (Prevention) Act is part of the country's statutory framework for preventing the practice. The lists the Act among India's women-related legislation.

Thus, a practice once situated within religious, familial, and customary structures has been transformed into a legally prohibited form of violence.

8. Purdah, Seclusion, and Control of Women's Mobility

Purdah, or forms of female seclusion and gender segregation, existed in different forms across Mughal society. It was not uniform, nor was it exclusively a Muslim practice. Variations existed among Hindu, Muslim, elite, rural, urban, and regional communities.

For elite women, seclusion could be connected to status and honour. The physical separation of women from unrelated men could be understood as a marker of respectability. However, seclusion could also impose significant restrictions on women's mobility and access to education, as well as limit their opportunities for economic activity and participation in public life. It could further reduce their political visibility and restrict their interactions with men outside their immediate family or social circle.

It is therefore necessary to distinguish voluntary cultural practice from coercive restriction. The same practice could have different meanings depending upon the woman's ability to choose.

Contemporary India has undergone enormous changes in this regard. Women participate in education, employment, politics, journalism, science, business, administration, sports, and public life.

Nevertheless, restrictions on female mobility have not disappeared everywhere. Concerns about family honour, safety, sexuality, marriage, and social reputation can continue to influence women's movement.

The difference is that contemporary constitutional principles recognize women's equal citizenship and freedom in ways that were not articulated in the same form in Shah Jahan's period.

9. Property, Economic Dependence, and Gender Violence

Economic dependence is one of the important structural dimensions of gender violence.

A woman who lacks independent economic resources may find it difficult to leave an abusive relationship. Economic dependency can therefore function as an indirect mechanism of coercion.

Mughal women did possess property and financial rights under various legal and customary arrangements. Muslim women, for example, could have claims associated with inheritance and mahr. Elite women could control substantial wealth.

Jahanara Begum provides a striking example of the economic capacity available to some imperial women. However, elite examples cannot be generalized to ordinary women.

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Economic status therefore operated as a major dividing line.

A wealthy woman might possess property and servants and exercise authority within her household. A poor woman might be heavily dependent upon family labour and household relationships.

Contemporary India has expanded women's economic opportunities considerably, although economic inequality remains significant. Women's participation in education, wage employment, entrepreneurship, banking, property ownership, and political institutions has created new forms of independence.

Yet economic dependency continues to be relevant to domestic violence.

The relationship between economics and gender violence can be understood through a simple structural model:

economic dependency → reduced exit options → increased vulnerability to coercion.

This mechanism can operate across historical periods even when the surrounding legal and cultural systems are very different.

10. Domestic Violence: From Household Discipline to Legal Violation

Domestic violence provides perhaps the clearest comparison between the two periods.

In seventeenth-century society, the household was a strongly hierarchical institution. The authority of husbands, fathers, senior relatives, and other household members was socially significant. Harm occurring within the family could be treated as a private or domestic matter rather than as a violation of an individual's independent rights.

This does not mean that violence inside families was universally accepted. Rather, the boundary between "family discipline" and "violence" was historically different.

Modern India has progressively transformed this boundary.

The Protection of Women from Domestic Violence Act, 2005 explicitly seeks to provide more effective protection for women experiencing violence within domestic relationships. The Act recognizes domestic violence as involving more than physical assault and provides a legal framework for protection and related remedies.

This represents a fundamental conceptual transformation.

The contemporary legal system increasingly recognizes that: the home is not outside the protection of law.

This principle is historically significant. A woman's status as wife, daughter, mother, sister, or partner does not eliminate her legal personhood.

Nevertheless, law alone cannot eliminate domestic violence.

NFHS-5 data demonstrate this clearly. Approximately 29% of ever-married Indian women aged 18–49 reported having experienced physical or sexual spousal violence. The reported prevalence was higher in rural areas than urban areas in the survey.

This creates one of the central paradoxes of contemporary gender relations: legal protection has expanded dramatically, while gender violence remains widespread.

11. Sexual Violence and Bodily Autonomy

The concept of sexual violence has undergone significant transformation.

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In contemporary India, sexual violence is increasingly framed around consent and bodily autonomy. The Bharatiya Nyaya Sanhita, 2023, which came into force on 1 July 2024, contains provisions dealing with rape and other offences against women. Its rape provisions include an explicit statutory discussion of consent.

The modern legal concept of consent is important because it shifts the focus from women's social status to the individual's voluntary participation in sexual activity.

The historical situation was different. Marriage, sexuality, family honour, and reproductive expectations were closely interconnected. Women's sexuality could be regarded as a matter involving families and communities rather than solely the individual woman.

This does not mean that seventeenth-century women lacked all notions of consent. Islamic marriage law, for example, contained contractual concepts, and women's consent could have legal significance. But the modern language of individual bodily autonomy and universal gender equality developed within a very different intellectual and legal environment.

Comparing the situation historically, we see that the thinking and organization of gender, marriage, sexuality and women's rights has changed a lot. Sexuality in the Shah Jahan period was intimately connected with family honor, social repute and communal expectations. However, sexuality in contemporary discourse is increasingly construed as sexual autonomy, a facet of individual rights and bodily integrity.

Seventeenth-century marriage was grounded in family, kinship, community and social alliances. While marriage is still shaped by family and social factors in contemporary India, the legal system is moving toward a notion of marriage as a partnership between persons with separate rights and legal identities.

Similarly, the gender hierarchy was strongly established in the social and administrative systems of the Shah Jahan period. By contrast, modern India is based on the constitutional principle of equality and bars discrimination on the basis of sex.

Also there is an essential change in domestic affairs. In the earlier period the family authority and customary norms had a role in the regulation of relations inside the household. But present-day Indian law acknowledges domestic violence as a legal and societal problem and there are avenues for protection and reparation.

Finally, there are many more institutional options available to women. Women in the time of Shah Jahan lived under social and legal regimes which provided limited and highly differentiated forms of formal protection. Today, women can approach the courts, police authorities, women's commissions, helplines, protection officers and other statutory and institutional mechanisms for help.Thus, the historical transition is not merely from oppression to freedom. It signals, rather, a broader movement away from socially rooted and family-centred systems of gender regulation toward a legal framework more centered on individual rights, equality, bodily autonomy and institutional protection.

The modern framework is still imperfect in practice, but its normative basis is quite different.

12. Women, Honour, and Social Control

The concept of family honour has historically been central to the regulation of women's behaviour.

In patriarchal societies, women's sexuality may be closely associated with family honour and reputation, creating social pressure around various aspects of their lives. These pressures can influence expectations regarding marriage and sexual relationships, as well as regulate women's choices concerning dress, mobility, friendships, widowhood, and reproduction.

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During the Mughal period, honour operated differently across social and religious groups, but the regulation of women's sexuality was an important part of patriarchal social structures.

In contemporary India, honour-related restrictions can still exist. In extreme cases, family or community members may respond violently to relationships or marriages considered socially unacceptable.

The important continuity is not that seventeenth-century and contemporary honour systems are identical. Rather, both demonstrate how women's bodies can become sites upon which collective identities and family reputations are constructed.

The major historical transformation lies in the contemporary legal principle that an adult woman's personal choices are protected by individual rights.

13. Women of the Mughal Elite: Agency Within Patriarchy

A balanced historical analysis must avoid reducing Mughal women to victims.

The Mughal imperial household produced several highly influential women. During Shah Jahan's reign, Jahanara Begum became particularly prominent. Other imperial women exercised influence through patronage, kinship, religious networks, commerce, and political relationships.

Modern scholarship emphasizes precisely this complexity. The Oxford Handbook's treatment of Mughal women describes imperial women as participants in political advising, diplomacy, patronage, trade, religious activity, and artistic production.

This has implications for the study of gender violence. A woman may live within a patriarchal structure while simultaneously possessing significant agency.

These two propositions are not contradictory. A society may be patriarchal in its structure and norms, while individual women can still exercise meaningful power and influence within that system. Patriarchy may shape the limits of women’s roles without eliminating their ability to negotiate, make decisions, and influence social and family relationships.

The same distinction applies today. Women can occupy positions of political, economic, academic, and institutional authority while still facing gender-based discrimination or violence.

Thus, agency should not be used to deny structural inequality.

14. Contemporary India: The Legal Transformation

The most significant difference between Shah Jahan's period and contemporary India is the development of a constitutional and statutory framework based on equal citizenship.

The Indian Constitution establishes principles of equality and prohibits discrimination on specified grounds, including sex.

Over the twentieth and twenty-first centuries, Parliament has enacted legislation addressing various forms of gender inequality and violence.

Among the significant measures are:

- the Dowry Prohibition Act, 1961;
- the Indecent Representation of Women (Prohibition) Act, 1986;
- the Commission of Sati (Prevention) Act, 1987;
- the Protection of Women from Domestic Violence Act, 2005;
- the Prohibition of Child Marriage Act, 2006;

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- the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013;
- the Bharatiya Nyaya Sanhita, 2023.

The [5] identifies these among India's principal women-related legislative measures. [5]

The legal transformation is therefore extensive.

Gender violence is no longer regarded merely as an issue of family discipline or community regulation. It can constitute a violation of fundamental rights and a criminal offence.

15. Domestic Violence in Contemporary India

The Protection of Women from Domestic Violence Act 2005 is particularly important for comparative purposes.

The law defines domestic violence broadly and seeks to provide women with protection from violence occurring within domestic relationships. Its purpose is explicitly connected with the protection of women's rights.

This represents a major shift from the social organization of the early modern household.

The law recognizes multiple dimensions of abuse, including physical and other forms of harm. Government material accompanying the legislation describes domestic violence in terms that include physical, sexual, verbal, emotional, and economic abuse.

The significance of this legislation is not only practical but conceptual.

It communicates that:

- marriage does not authorize violence;
- family relationships do not eliminate legal protection;
- economic abuse can be a form of violence;
- emotional and psychological harm can have legal significance;
- women have institutional avenues for seeking protection.

The contrast with the seventeenth century is therefore considerable.

Yet implementation remains a major question. A law may exist while social stigma, economic dependence, family pressure, inadequate institutional response, or lack of awareness discourages women from using it.

16. Contemporary Data on Spousal Violence

Contemporary data provide an empirical basis for evaluating the persistence of gender violence.

According to NFHS-5, approximately 29.2–29.3% of ever-married women aged 18–49 reported experiencing spousal violence, depending on the published presentation and rounding. The data concern the 2019–2021 survey period.

The Government of India has noted that this represented a decline from the approximately 31% reported in NFHS-4 for 2015–2016.

These figures should be interpreted carefully.

They do not measure all gender violence in India. They concern particular forms of spousal violence and a particular population. They also depend upon survey respondents' willingness and ability to disclose violence.

The data nevertheless demonstrate that contemporary legal reform has not eliminated domestic violence.

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This creates a critical historical insight: The transformation of law is not identical to the transformation of social behaviour.

The Shah Jahan period lacked the contemporary legal framework, but contemporary India possesses extensive legal protections while still experiencing substantial violence.

17. Workplace Sexual Harassment and the Expansion of Public-Sphere Rights

Another major difference between the two periods is women's participation in public and economic life.

In seventeenth-century Mughal society, women's economic activities existed, but the public sphere was highly gendered. Elite women could participate in trade and patronage, while women from different social groups engaged in agricultural, artisanal, domestic, and other forms of labour.

Contemporary women increasingly participate in formal workplaces, government, universities, businesses, media, science, and professional institutions.

This expansion has generated new forms of gender violence and new legal responses.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is designed to address sexual harassment in workplaces.

The historical significance of this law lies in the recognition that gender violence can occur beyond the household.

The seventeenth-century framework was strongly organized around family, household, kinship, and courtly institutions. Contemporary law addresses gender violence across multiple social environments.

18. Media, Technology, and New Forms of Gender Violence

Contemporary gender violence also includes forms that could not have existed during Shah Jahan's reign.

Digital technologies have also created new avenues for gender-based abuse and control. These include online sexual harassment, cyberstalking, the non-consensual sharing of intimate material, online threats, technology-enabled coercive control, and gendered abuse through social media platforms.

These practices illustrate why historical comparison must not simply search for identical phenomena.

The continuity lies in power and control; the form changes according to technology.

A seventeenth-century patriarch could attempt to control a woman's movement physically. A contemporary abuser may combine physical control with surveillance through mobile devices, social media accounts, location tracking, or financial technology.

The underlying mechanism—control over another person's autonomy—may resemble older patterns even though the technology is entirely new.

19. Caste, Class, and Gender

Gender violence cannot be separated from caste and class.

Mughal India was deeply hierarchical. Gender relations were shaped by caste, occupational status, wealth, religious affiliation, and political position.

Similarly, contemporary India contains substantial inequalities based on caste, class, region, education, disability, and economic status.

This means that "Indian women" cannot be treated as a single historical category.

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For example, an elite Mughal woman and a poor rural woman experienced gender differently. Likewise, a contemporary urban professional woman and a poor agricultural labourer may face different forms of vulnerability.

The intersection of gender with class is particularly important.

Economic resources can influence:

- access to education;
- ability to leave an abusive household;
- access to lawyers;
- access to healthcare;
- ability to travel;
- access to police and courts;
- social support.

Therefore, a comparative history of gender violence must move beyond the category of "women" and examine the interaction of gender with broader systems of inequality.

20. Religion and Gender Violence: Avoiding Simplification

A sensitive issue in comparing Mughal and contemporary India is the role of religion.

It would be historically inaccurate to claim that gender violence during Shah Jahan's period was caused simply by Islam or Hinduism. Both Hindu and Muslim societies contained diverse interpretations and practices.

Shadab Bano's research demonstrates that legal traditions associated with both Hindu and Muslim communities could contain norms that restricted women, while also identifying mechanisms that could limit particular forms of violence.

Likewise, practices such as sati cannot be treated as representative of all Hindu women.

Nor should the zenana be treated as a uniquely Muslim mechanism of oppression. Female seclusion existed in different cultural contexts.

The historical lesson is that religion did not operate in isolation but interacted closely with family structures, state institutions, caste, economic relations, local customs, and political authority. These interactions shaped how religious ideas and practices were understood and applied within society. Contemporary India similarly contains multiple religious communities with diverse gender practices.

A responsible comparative approach must therefore avoid turning gender violence into a simplistic story about one religion versus another.

21. Law and Social Norms: The Central Comparison

Perhaps the clearest distinction between the two periods lies in the relationship between law and social norms.

During Shah Jahan's reign, law was plural and socially embedded. Religious jurisprudence, customary practices, caste institutions, royal authority, family structures, and local practices interacted.

Contemporary India possesses a unified constitutional framework in which citizens are formally equal before the law.

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This does not mean that customary practices have disappeared. Rather, the relationship between custom and law has changed.

A contemporary practice may be culturally accepted but legally prohibited. Conversely, a legal right may exist while social pressure discourages its exercise.

The following model summarizes the transformation:

Seventeenth century:

Social custom → family authority → community regulation → religious/legal norms → state intervention

Contemporary period:

Constitutional rights → statutory law → institutions → courts/police → individual remedies

The contemporary system therefore places greater emphasis on the individual as a legal subject.

22. From Collective Honour to Individual Rights

The historical transformation can also be understood as a movement in the dominant language surrounding women.

In many early modern contexts, women's social identities were closely tied to family, marriage, caste, religious community, lineage, and household honour. In contrast, contemporary constitutional discourse places greater emphasis on citizenship, equality, individual liberty, bodily autonomy, legal personality, and freedom from discrimination. This represents a profound shift in how women's rights and social identities are understood.

Yet collective expectations have not disappeared. Contemporary women can still experience pressure from families and communities regarding marriage, sexuality, dress, employment, and mobility.

Thus, contemporary India contains a tension between modern legal individualism and older forms of social regulation.

23. Continuities Between the Two Periods

Despite enormous historical differences, several continuities can be identified.

23.1 Patriarchal family structures

Both societies have contained family structures in which men could exercise greater authority than women.

23.2 Control over sexuality

Women's sexual behaviour has historically been subject to social regulation, often more intensely than men's.

23.3 Marriage as a site of gender power

Marriage could provide economic and social security while simultaneously creating unequal power relations.

23.4 Economic dependency

Dependence on husbands or families could restrict women's ability to resist coercion.

23.5 Social stigma

Women leaving marriages, challenging family authority, or violating gender expectations could face social consequences.

23.6 Unequal access to institutional power

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Elite women could possess significant authority, but access to power was highly unequal.

23.7 Gap between formal norms and lived experience

Even where rules theoretically protected women, their actual implementation depended upon social and institutional conditions.

These continuities demonstrate why historical analysis remains relevant to contemporary gender violence.

24. Major Transformations

The differences are equally important.

24.1 Constitutional equality

Contemporary India formally recognizes equality before law and equal citizenship.

24.2 Criminalization of violence

Many forms of violence against women are explicitly recognized as criminal offences.

24.3 Legal recognition of domestic violence

The Protection of Women from Domestic Violence Act created a specific framework for domestic abuse. [6]

24.4 Prohibition of sati

Sati is legally prohibited, representing a dramatic transformation from early modern conditions. [5]

24.5 Regulation of child marriage

Child marriage is prohibited by modern legislation.

24.6 Workplace protection

Sexual harassment at work is addressed through dedicated legislation. [5]

24.7 Expansion of education

Women's access to formal education has expanded enormously.

24.8 Expansion of public participation

Women participate in electoral politics, administration, professional occupations, universities, journalism, science, and business.

24.9 Development of women's movements

Modern women's organizations have created collective platforms for challenging gender violence and discrimination.

24.10 Institutional mechanisms

Women can approach police, courts, women's commissions, helplines, protection officers, lawyers, medical institutions, and civil-society organizations.

These transformations fundamentally distinguish contemporary India from Shah Jahan's world.

25. Conclusion

The comparison between the Shah Jahan period and contemporary India demonstrates that gender violence must be understood through the institutions and social meanings of each historical period. Seventeenth-century Mughal society contained deeply hierarchical family and gender relations, but it also allowed forms of female agency that are obscured when the imperial zenana is described only as a space of confinement. Marriage,

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kinship, economic dependence, honour, seclusion, and control over sexuality could structure women's vulnerability, while elite women could exercise political, economic, religious, and cultural influence.

Contemporary India differs substantially in its legal and institutional foundations. Constitutional equality, statutory protections against domestic violence and workplace harassment, prohibitions on child marriage and sati, and contemporary criminal law have transformed the formal status of women. The state now recognizes violence within the household and other forms of gendered harm as matters that can engage individual rights and legal remedies.

At the same time, the persistence of spousal violence shows that legal transformation does not automatically produce social transformation. The NFHS-5 figure of 29.2 percent for ever-married women aged 18–49 who had experienced spousal violence is a reminder that formal equality and lived equality remain distinct. The comparison therefore should not be reduced to a simple movement from oppression to freedom. It is better understood as a history of changing institutions, concepts, and possibilities of agency.

The central continuity is the relationship between gender, power, and control. The central transformation is the emergence of a constitutional and statutory order that formally recognizes women as equal legal persons and provides institutional mechanisms through which violence can be challenged. A historically informed understanding of gender violence must hold both realities together: patriarchal structures have demonstrated persistence, while the legal, social, and economic possibilities available to women have changed profoundly.

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