

Can Human Rights Law Protect Against Humiliation?

DEEPA KANSRA

KEY POINTS

- Laws that punish acts of humiliation stand challenged for their poor design (scope and punishment) and weak implementation (low convictions).
- Legal systems differ in terms of perspectives of humiliation and the legal standards applied for prosecution.
- There are strong reasons to support the inalienable right of all individuals and communities against humiliation.

Humiliation has emerged as a key concept in studies on human dignity, modern slavery, terrorism, immigration, war, conflict, etc. The attention has allowed stakeholders to understand experiences of humiliation and their impact, and to make meaningful interventions to prevent harm. The group [Human Dignity and Humiliation Studies](#), for instance, is one such network working toward “advancing research, education, and interventions to end humiliating practices and promote human dignity around the world.”

A human rights perspective interprets humiliation as a form of violence that constitutes a violation of an individual’s rights and dignity. According to Lindner, all behavior designed to humiliate “contravenes the normative expectations built into modern notions of human rights” (Lindner, 2019).

Most definitions view humiliation from three aspects: the experience of the victim (the humiliated); the position of the person humiliating (i.e. the perpetrator); and the importance of the spectator (i.e. persons who witness the act). When viewed as a personal experience, humiliation is said to involve a complexity of thoughts that center on (a) one’s sense of being devalued, typically through an insult; (b) a response of disbelief by the humiliated person; and (c) a feeling of indignation. (Rothbart, 2019:35).

While there are numerous works on humiliation, it is an “understudied emotional experience” (Elison 2018). Experts argue that it needs to be studied from a “clinical standpoint” ([Collazzoni et.al. 2014](#)), a “community/group” standpoint (Kaufman *et. al* 2011), a “critical and context-based” standpoint in psychological studies on caste-based humiliation (Jogdand 2022), and a “national” standpoint (Barnhart 2020), among others.

Deutsch gives a comprehensive view that “oppressive-humiliating relations exist at all levels—among and within nations, among and within religious and ethnic groups, between the sexes, and within our various institutions (the family, school, workplace,

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political, healthcare, etc.). It need not be extreme, nor does it need to involve the legal system or violence" (Deutsch, 2006).

Humiliation and Human Rights Law

Human rights laws aim to protect vulnerable persons from acts of humiliation that may come within the ambit of violations like cybercrimes (Adediran, 2020: 965), sexual harassment in the workplace (ILO), caste-based discrimination (Jogdand 2022), torture (Vorbruggen & Baer 2007), bonded labour, etc.

One notable example is an Indian law called [Scheduled Castes/Scheduled Tribes \(Prevention of Atrocities\) Act \(1989\)](#), which prescribes punishment for insults done with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view (Section 3 (1) (r)). The law, according to the Supreme Court of India, was enacted "to punish the violators who inflict indignities, humiliations, and harassment—i.e. to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community." ([Hitesh Verma v. State of Uttarakhand](#), 2022).

Human rights laws are seen as a robust approach to addressing humiliation. However, the working of these laws has often been subject to scrutiny and criticism.

Human Rights Laws' Limitations

Humiliation, as dealt with under different legal jurisdictions, poses a question about how these systems perceive and respond to humiliation. Are the laws' definitions, approach, and punishment appropriately determined? And if there are challenges to implementation, what are they?

- Out of the many challenges, the first set concerns the approaches in law. For instance, is the law victim-centric? This question concerns the extent to which the "victim's sense of being humiliated" is relied upon (or not) to come to the final decision. In the landmark case of *Bouyid v. Belgium*, for example, the test for prosecution and punishment, as applied by the human rights court, was "the victim's vulnerability and the victim's sense of being humiliated in his own eyes." ([Bouyid v Belgium](#): European Court of Human Rights).
- Another question is whether the *law takes note of the impact or consequences of humiliation*. Psychological studies have contributed to understanding the impacts of humiliation. At the workplace, for instance, humiliation may constitute a safety and mental health problem, which if severe, may lead someone to "never recover" ([International Labour Organization](#) 2020). It can lead to "low self-esteem, depression, PTSD, and even suicidal ideation" (Elison 2018). These studies make it necessary to assess the suitability of human rights in dealing with the consequences of humiliation.

- The second set of challenges concerns the capacity of laws to deter people from humiliating and hurting others (*is the law deterrent?*). This area is a big concern in the face of glaring evidence of low reporting of violations by victims and the withdrawal of police cases once registered. Further, low conviction rates in a few countries are viewed as "motivating and boosting the confidence of dominant and powerful communities for continued perpetration" ([Parliamentary Standing Committee](#), India: 2021).
- The third set of challenges concerns conceptual clarity and dynamism of human rights laws. *Are laws able to respond to the changing contexts of violations?* Jogdand mentions the use of digital technology and social media by perpetrators to humiliate others. This may involve "subtle verbal, nonverbal, and/or visual "put-down" cues, consciously or unconsciously" directed at a community (Jogdand 2022). In such cases, laws that require proof of "deliberate acts" or an "intent to humiliate" would not suffice.
- On whether there is conceptual clarity, laws often treat humiliation the same as shame, fear, etc. Yet psychological studies have time and again emphasized how humiliation differs from other emotions in terms of pain and impact (Collazzoni *et.al.* 2014).

These challenges speak of the limits and inadequacies of human rights laws. Thus, re-engaging with them is absolutely imperative. A part of this exercise would involve:

- Integrating a comprehensive view, including a "psychology-based view" of humiliation (of perpetrators, victims, and impacts) in matters of law, justice, and punishment, and
- Advancing a right against humiliation as an inalienable right of all individuals and communities, in all settings.

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About the Author

Deepa Kansra is an Assistant Professor of Law at the Human Rights Studies Programme, School of International Studies, Jawaharlal Nehru University, India