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# **TOWARDS GENDER-NEUTRAL JUSTICE: A COMPREHENSIVE ANALYSIS OF LEGAL REFORMS FOR EQUITABLE PROTECTION OF MEN'S RIGHTS IN INDIA**

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## **ABSTRACT:**

This article critically examines the gender bias inherent in Indian criminal laws and delves into the societal ramifications of such biases. The legal landscape in India, historically driven by patriarchal norms, has gradually evolved towards gender-neutral legislation to uphold constitutional values of equality and individual liberty. However, challenges persist as debates surrounding the misuse of pro-women laws and the neglect of men's experiences highlight the need for a comprehensive reassessment.

The study begins by scrutinizing the existing legal provisions related to sexual assault, rape, domestic violence, sexual harassment, and maintenance laws. It underscores the societal impact of gender-biased frameworks, including the underreporting of crimes due to fear of stigma and societal attitudes that trivialize certain offenses. The article advocates for inclusive laws that recognize both the crime and the victim, irrespective of gender, emphasizing the importance of dismantling patriarchal attitudes.

A significant focus is placed on sexual assault against men, an often overlooked aspect in Indian jurisprudence. Despite the World Health Organization's estimation that globally 12-16% of rape victims are men, Indian law defines rape exclusively as an offense committed by a man against a woman. The article explores the challenges men face in reporting such crimes and the societal stigma surrounding the rape of men.

Domestic violence laws, primarily designed to protect women, are scrutinized for their gender bias and potential for misuse. The study suggests reframing these laws as "spousal violence" to

ensure equal protection for both genders, emphasizing the need for strict penalties to prevent misuse.

The examination extends to sexual harassment laws, focusing on the absence of legal frameworks holding women accountable for committing sexual abuse against men. The article argues for gender-neutral legislation in this regard, acknowledging that sexual harassment transcends gender and necessitates equal protection for all individuals.

In the context of maintenance laws, the article highlights the gender bias that adversely affects financially insufficient men and argues for a re-evaluation to ensure equality and prevent misuse. The article concludes with a call for legislative amendments, societal acknowledgment of men as potential victims, and the establishment of mechanisms to scrutinize false testimonies, ensuring justice for all. The overarching goal is to foster a legal environment that aligns with constitutional principles, recognizes gender equality, and addresses the unique challenges faced by both men and women.

## **INTRODUCTION:**

For a considerable period, India has been actively engaged in the battle to protect women's rights. It is crucial to ensure that the reported increase in crime statistics stems from actual occurrences rather than the misuse of laws designed to safeguard the modesty of women. While acknowledging that women are often the primary victims, there is a need to avoid neglecting the experiences of men due to the unjust application of existing laws.

Historically, pro-women laws and regulations were justified by the societal status of women. However, the current constitutional framework emphasizes equality for all individuals. India, boasting the world's longest written constitution and being the largest democracy, upholds constitutional values such as individual liberty, social justice, the rule of law, and fundamental equality.

Gender-specific laws have evolved into gender-neutral legislations, aimed at protecting all individuals equally without gender distinctions. Given the rise in various crimes and the vulnerability of all individuals in society, it is just and reasonable to advocate for inclusive laws that recognize both the crime and the victim regardless of gender. However, feminist groups and

women activists oppose gender-neutral legislation, arguing that it might divert attention from genuine female victims and lead to false complaints. Concerns are raised about potential harm outweighing the intended benefits. A study of National Library of Medicine says 52.4% of men experienced gender-based violence in their life at Haryana<sup>1</sup>.

Proponents of gender-neutral laws argue that such legislation won't eradicate crimes entirely but will normalize the reality that men also face hardships and sufferings similar to women. Achieving equality requires dismantling patriarchal attitudes and taboos, beginning with inclusive legislation that considers the victimization of all genders. The Justice Verma Committee in 2013 recognized the possibility of sexual assault on men and recommended reforms. However, feminist organizations objected, resulting in the omission of these recommendations in the Criminal Law (Amendment) Act 2013.

Sexual assault and abuse against men receive inadequate attention due to limited research and societal disbelief in the victimization of men. Existing legislations predominantly penalize males for various offenses, but there is a lack of scientific justification for targeting a single gender. The need for a comprehensive analysis of legal provisions, considering relevant judicial precedents, is crucial to better implementation and preventing misuse of legal power. Key areas of focus include rape allegations, domestic violence, sexual harassment, and maintenance laws.

## **THE CURRENT LEGAL PROVISIONS - AN IN-DEPTH EXAMINATION:**

In recent times, the core values of women empowerment and gender equality have gained widespread recognition. It is unquestionable that any form of sexual abuse deserves strong condemnation, as tolerating such behaviour would amount to a disregard for the inherent rights of freedom and dignity that every individual possesses.

Acts such as sexual assault, rape, cruelty, and harassment are matters of serious concern not only due to the psychological, physical, and emotional trauma inflicted upon the victims but also because the growing tolerance of such practices in society appears to be connected to the rule of law.

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<sup>1</sup> A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India, available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/> (Visited on January, 29, 2024)

The basic rights to live with human dignity, equality, and the freedom to choose one's work, trade, or profession serve as fundamental protections against assault and harassment. This is anchored in the Indian Constitution, which ensures fundamental freedoms for all citizens, irrespective of gender.

Crucially, the preamble to our Constitution advocates for social, economic, and political justice, inherently encompassing gender justice, freedom of expression, thought, belief, faith, and religion. The principle of equality is further strengthened by ensuring equal opportunities, while fraternity encourages citizens to treat one another with dignity and mutual respect, regardless of their gender.

### **RAPE AND FALSE ACCUSATIONS OF RAPE:**

While the prevailing perception is that rape victims are predominantly women, the World Health Organization estimates that globally, 12-16% of victims are men, with reported instances of past sexual abuse during childhood. A data from National Alliance to End Sexual Violence reveals, approximately 14% of reported rapes encompass male victims, with 1 in 6 reported sexual assaults targeting boys and 1 in 25 reported sexual assaults directed towards men<sup>2</sup>. However, official data on such sexual assaults against men is lacking in India, reflecting not only a lack of initiative to protect men's rights but also societal and state ignorance toward the prevalence of such crimes. Justice Krishna Iyer once remarked, "*A murderer kills the body, but a rapist kills the soul*<sup>3</sup>."

Within the Indian Legal System, the notion that 'men can be raped' faces a challenging position. Section 375 of the Indian Penal Code, 1860 defines rape as an offense committed by a man against a woman, implying that, according to the legal definition, men cannot be victims of rape. The societal attitude has contributed to providing ample reasons for false accusations of sexual assault against women, masking the unchastity of those women. Proving accusations by men against women can be challenging due to the societal taboo surrounding the rape of men.

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<sup>2</sup> Male Victims, available at: [https://endsexualviolence.org/where\\_we\\_stand/male-victims/](https://endsexualviolence.org/where_we_stand/male-victims/) (Visited on January, 29, 2024)

<sup>3</sup> *Rafiq vs State of U.P.*, AIR 1981 SC 96.

However, in the case of *Girdhar Gopal v. State, 1952*<sup>4</sup>, the court adopted a broad interpretation of Section 354 IPC, stating that offenses under this section can be committed by both men and women who have the necessary intent. This interpretation highlights the absence of specific laws in the Indian Penal Code, 1860 that recognize and penalize any act of using criminal force or assault against a man with the intent to '*outrage his modesty.*'

Despite stringent laws adopted by the parliament to prevent sexual harassment against men, a report from the Delhi Commission of Women (DCW) revealed a significant number of deceptive rape cases. The #metoo movement, operating under the amended criminal law protecting women from sexual harassment, has sometimes led to constructed allegations, misusing laws for ulterior motives.

In cases where a man is accused of raping a woman, societal and systemic emphasis tends to be more on evidence that incriminates him as a rapist rather than evidence that could acquit him. The Justice Verma Committee recommended making crimes gender-neutral in the Criminal Law (Amendment) Ordinance, but unfortunately, the ordinance was overturned in 2013 with the Criminal Law (Amendment) Act.

Despite the government's dedicated efforts to prevent violence against women, including widening the definition of rape and introducing fast-track courts after the infamous 2012 Nirbhaya Gang Rape in Delhi, challenges persist in addressing sexual violence comprehensively.

## **DOMESTIC VIOLENCE AND CRUELTY:**

Domestic violence, denoting violence or abuse within a household or domestic setting, has emerged as a critical issue linked to marriage or cohabitation. In India, reports indicate that one in every five women falls victim to some form of domestic violence, contributing to a concerning prevalence of such incidents. In response, the Protection of Women from Domestic Violence Act was enacted in 2005, aiming to shield women from various forms of violence within the family or matrimonial house. However, a noteworthy concern arises when women themselves become both the cause and recipients of such violence within familial relationships.

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<sup>4</sup>AIR 1953 MADHYA BHARAT 147

Acts of violence within relationships, especially marriages, leave victims with enduring damage and pain beyond visible injuries or scars. A report by Times of India, revealed that out of 90,000 to 100,000 cases investigated annually, approximately 10,000 complaints of dowry harassment turn out to be false<sup>5</sup>. Furthermore, married men facing domestic issues often resort to suicide, underscoring the gravity of the problem. The report also highlighted a lesser-discussed issue: instances of girls facing beatings from their own mothers, surpassing violence from mothers-in-law.

The legislation governing domestic violence presents two fundamental problems:

- It heavily favors and protects women, showcasing a pronounced gender bias.
- The legislation has the potential for misuse.

Despite evidence indicating that women can also inflict violence in intimate relationships, the law remains resistant to providing protection to male victims. Furthermore, it grants various rights to women without holding them accountable for their actions.

To address this, there is a crucial need to make these laws gender-neutral, ensuring equal protection for both men and women. Additionally, strict penalties should be incorporated to prevent misuse of the law, ensuring that legislation is not wielded as a tool for malicious purposes.

### **SEXUAL HARASSMENT LAW:**

India's Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, currently provides protection exclusively to women. This lack of a legal framework holding women accountable for committing sexual abuse against men raises concerns. Officially, India lacks precise figures on the number of men facing sexual harassment in the workplace and how many report such incidents. It is crucial to recognize that sexual harassment transcends gender, focusing on control, power, and authority. The growing issue of harassment and assault against men in public forums needs careful examination.

In the case of *Sarita v Ramchandran*<sup>6</sup>, the court noted a shift in this trend and subsequently, urged

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<sup>5</sup> Deeptiman Tiwary, "10% of dowry cases false, government plans changes in law" The Times of India, Mar 22, 2015.

<sup>6</sup> 2002(6)ALD319

The Law Commission and Parliament to deliberate on converting this offense into a bailable and non-cognizable one. Nevertheless, numerous women's rights groups and organizations opposed this proposed change, contending that it could potentially favour the accused, providing them with an opportunity to evade conviction.

Sexual harassment against males requires greater attention, given that male suicides at the workplace are four times more common than female suicides. Many countries, including the United Kingdom, United States, Australia, and Denmark, have accepted gender-equal legislation. However, the Indian Parliament has repeatedly rejected enacting gender-neutral laws against harassment. It is imperative for Indian legislation to acknowledge that men can also be victims of sexual harassment.

### **MAINTAINANCE:**

Section 125 of the Criminal Procedure Code, 1973, along with various personal laws in India, establishes the provision for 'Maintenance.' In accordance with this law, maintenance encompasses the overall well-being, including the provision of food, shelter, and clothing. This concept is derived from Article 15(3) and further supported by Article 39 of the Indian Constitution. Wife, children, and parents are entitled to maintenance under Section 125 of CrPC. This section imposes a moral and natural duty on a man to provide maintenance for his family when they are unable to do so themselves. Enacted to prevent homelessness, this section authorizes maintenance for those unable to sustain themselves, and the right is applicable both during interim and final stages of proceedings for wives, children, and parents.

Under personal laws in India, there have been extremely rare cases where the court has taken a liberal view, allowing husbands to claim maintenance from their wives in circumstances where the husband is unable to sustain himself due to accidents, diseases, or disorders. However, it remains mandatory for a man to provide maintenance to his wife, parents, and children, whether legitimate or illegitimate, under Section 125. This section also encompasses stepmothers without children of their own who have been divorced.

While Section 125 is perceived as a gender-neutral provision when it comes to providing maintenance to parents, it becomes gender-biased concerning the maintenance of spouses. This gender bias significantly affects men who are financially insufficient and are compelled to support

their wives, resulting in inadvertent suffering due to the unjust nature of the law. These biases also impact cases where such laws are misused by individuals entitled to maintenance, subjecting the respondent to harassment over trivial issues, which, in turn, places fathers, husbands, or sons under severe financial burdens. In matters of spousal maintenance, Section 125 explicitly discriminates based on gender. While addressing maintenance for parents and children, it also implicitly discriminates, assuming that a man can earn money if he is mentally and physically healthy and well, while a similar presumption is not applicable to women.

## **RECOMMENDATIONS FOR GENDER-NEUTRAL LEGAL REFORMS IN INDIA:**

### **Legislative Amendments for Gender-Neutral Definitions:**

Advocacy for amendments to Section 375 of the Indian Penal Code, 1860 is required to redefine rape and broaden its scope to include victims of all genders. This will align with the constitutional principles of equality and ensure that legal definitions are not exclusive.

### **Recognition of Male Victims and False Accusation Safeguards:**

Introduction of legal provisions explicitly recognizing and penalizing sexual assault against men is needed. Simultaneously, implementation of safeguards to prevent false accusations, ensuring a fair and just legal process for all parties are required.

### **Comprehensive Analysis of Legal Provisions:**

Conduct a comprehensive analysis of existing legal provisions, including rape allegations, domestic violence, sexual harassment, and maintenance laws, to identify gender biases and areas susceptible to misuse. This analysis should involve legal experts, sociologists, and gender specialists.

### **Public Awareness Campaigns:**

Launch extensive public awareness campaigns to challenge societal norms and dispel myths surrounding sexual assault and harassment against men. Emphasize the importance of reporting such incidents, fostering a culture that encourages openness and support for all victims.

### **Gender-Neutral Domestic Violence Legislation:**

Amend Domestic Violence laws to be gender-neutral, reframing them as "Spousal Violence" to

ensure equal protection for both men and women. Incorporate strict penalties to deter misuse and guarantee accountability for those who commit acts of violence within familial relationships.

**Inclusive Sexual Harassment Laws:**

Advocate for the inclusion of provisions within existing sexual harassment laws that recognize both male and female victims. Push for gender-equal legislation to address harassment in public spaces and workplaces, acknowledging that harassment transcends gender boundaries.

**Data Collection and Research:**

Encourage comprehensive research on sexual assault against men, including the collection of official data on incidents, to provide a clearer understanding of the issue. This research will serve as a foundation for evidence-based policymaking.

**Review of Maintenance Laws:**

Conduct a thorough review of maintenance laws, particularly Section 125 of the Criminal Procedure Code, to eliminate gender bias. Propose amendments that ensure equality in the provision of maintenance for spouses, parents, and children, recognizing the financial hardships faced by both men and women.

**Establishment of a Gender-Neutral Sexual Harassment Framework:**

Propose a gender-neutral framework for addressing sexual harassment in workplaces, aligning with global practices. This framework should acknowledge that both men and women can be victims of harassment and ensure fair procedures for investigation and redressal.

**Judicial Training and Sensitization:**

Implement mandatory training programs for legal professionals and law enforcement agencies to enhance awareness and sensitivity towards issues of sexual assault and harassment against men. Promote a gender-inclusive approach in legal proceedings.

**Creation of a Review Body:**

Establish an independent body tasked with reviewing cases involving false testimonies and assessing the genuineness of complaints before trial. This will ensure a fair and unbiased legal process, preventing the misuse of laws for malicious purposes.

By implementing these recommendations, India can progress towards a legal framework that truly upholds constitutional values, promotes gender equality, and provides equitable protection to all individuals, irrespective of their gender. These reforms aim to create a society where justice is accessible to every victim, regardless of gender, and where laws serve as instruments for positive societal change.

## **CONCLUSION:**

In conclusion, Article 14 of the Indian Constitution emphasizes the 'right to equality' for everyone, regardless of gender. However, India lacks legislation protecting men from sexual harassment committed by women. Amendments are necessary to include and prohibit violence against men comprehensively. Domestic violence laws should be reframed as "Spousal violence," free from gender differentiation. There is a need for laws identifying false allegations of violence or dowry. Men facing violence or harassment should be encouraged to report, and laws must not discourage them from doing so.

It is essential to recognize that sexual harassment is about power dynamics and has nothing to do with the gender of the victim. Therefore, provisions penalizing harassment against men should be inserted into the Indian Penal Code. The judiciary and legislature must ensure that sexual harassment laws are not misused, leading to false allegations against men. Gender-neutral rape and sexual harassment laws are necessary, with a focus on addressing sexual harassment against men. The government, media, and society need to acknowledge that both men and women can be victims of sexual harassment. A separate body should be established to scrutinize false testimony and assess the genuineness of cases before trial, ensuring justice for all.

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