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GENDER BIAS AMONG MEN IN THE INDIAN LEGAL SYSTEM: A STUDY OF UNEQUAL PROTECTION UNDER THE LAW

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Abstract

The current research paper is a critical analysis of the male gender prejudice in the Indian judicial system, and whether the system of gender-specific protective legislations has unwillingly contributed to the creation of unequal protections under the law. Although the evolution of the Indian laws in the past was aimed at protecting women against institutional violence and institutional discrimination, the study contends that some of those legal aspects of a matrimonial dispute, sex offenses, maintenance, and domestic violence constitute structural disadvantages to men both in terms of processes and social backgrounds. The paper appraises how the presumptions inherent in gender-specific laws could be inconsistent with the principles of equality before the law, presumption of innocence, and the right to dignity enshrined in Articles 14 and 21 of the Constitution of India through a doctrinal examination of the provisions of the constitutional laws and by referring to the applicable judicial precedent. The paper also examines the socio-legal impacts of false confessions such as damaged reputation, psychological distress, lengthy litigation, and economic imbalance of falsely accused men, and the disconnect between legal acquittal and social integration. It examines also the problem of custodial bias, judicial reasoning stereotyping, and male victimhood non-recognition pervading legal discourse. The research places the debate in the bigger constitutional and jurisprudential context by making a distinction between gender bias and gender discrimination. The paper ultimately concludes that the assurance of gender justice does not require diminishing of the protections to women, but rather attempting to balance, evidence based as well as gender neutral legal reforms that can ensure fairness, due process and equal protection of the law to all individuals within the justice system.

Keywords: Gender bias in law, Men's rights, Legal Discrimination, False Accusations, Victimization of men.

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1. INTRODUCTION

“GENDER JUSTICE IS NOT A ONEWAY STREET

-Justice Indu Malhotra

Article 14 of the Constitution of India provides the Indian legal system on the cardinal principles of fairness, presumption of innocence, and equality before law as the foundation of the Indian legal system. The doctrine that criminal jurisprudence works on is to assume innocence to an accused and prove him guilty. But over the last few years, there is an increasing outrage over cases where men are the alleged victim of false allegations on gender-related legislations and the resultant legal, social, and psychological effects defy even a trial before deciding the truth.

Such legislations like Section 85 of Bharatiya Nyaya Sanhita, 2023 (Section 498A of the Indian Penal Code)², sexual harassment provisions, and some laws pertaining to maintenance and domestic violence laws were enacted with a bona fide purpose of ensuring that women are not exploited and abused. Although such laws are solutions to real life social problems, they are strict and gender-biased to an extent that they have fostered a situation where a complaint can be used as a weapon of intimidation, revenge, or vengeance. In these instances, the act of making an allegation alone may lead to arrest, social tarnish, career loss and unhealing damage to the reputation and pride of a man.

False charges are one of the major threats to the sanctity of the justice system. Where such accusations are not supported by factual evidence or have other self-serving motives- e.g. matrimonial wrangles, monetary compensation or personal wrangles then the accused man is forced to go through protracted court cases in order to establish his innocence. The social implications are swift and dramatic: tension between family members, inability to find any job, mental illness and social isolation. Although proven innocent, the label that comes along with such accusations tends to linger and this is indicative of a disparity between exoneration on legal grounds and acceptance in the society.

There is also the problem of false accusations which also brings constitutional concerns. Equality before the law requires that the law should not be applied in a way that disadvantages

² The Bharatiya Sakshya Adhinyam, 2023, No. 47 of 2023 (India), § 85.

one gender already. Although the interest of protecting women against violence is crucial as a state, it is also important to make sure that men are not targeted unfairly in the pretext of protecting women. The issue of gender presumption of guilt erodes the very principles of criminal law and jeopardizes the trust that people have on the justice delivery system.

The paper discusses the issue of false allegations of male offenders in the Indian legal system and explores the opportunities of the law, legal commentary and legal reality. It seeks to examine the impact of abuse of protective laws in curtailment of rights, due process and mental health of men and propose equal measures in reforming ensuring justice without jeopardizing fairness. Being able to identify and deal with false accusations does not de facto deny women their rights, on the contrary, it is a step in the right direction towards having a legal system that is approachable, fair, and constitutionally correct to everyone.³

1.1 RESEARCH QUESTIONS

- i. Does gender-specific protective laws in India lead to unequal legal protection of men thus violating the constitutional promise of equality under Article 14?
- ii. In what way do the provisions of the Bharatiya Nyaya Sanhita, 2023 and Bharatiya Nagarik Suraksha Sanhita, 2023 cause structural weaknesses to men in criminal cases?
- iii. What is the impact of the abuse of a law like Section 85 BNS (previously 498A IPC) of the rights to due process and reputational dignity under Article 21 of the Constitution?
- iv. Will gender-neutral laws in offences like rape, domestic violence, and maintenance be important in case India adopts substantive equality?

2. THE NEED FOR GENDER- NEUTRAL LGEISLATION

a) Equality Before Law (Article 14).

This requires gender-neutral laws to ensure the constitutional equality before law, and equal protection of the law because the current gender specific requirements tend to disadvantage the men in the structural sense.

b) Protection of Men who are Falsely Accused.

Gender-neutral legislation would lessen the extent of false allegations since legal redress

³ Dr. Krishnendu Roy ed., *The Unheard Voice: Challenges of Men* (Red Unicorn Publ'g LLC 1st ed. 2023).

would not be tilted against males and the claims would be evaluated on merits and not gender stereotypes.

c) Getting rid of Presumption of Male Guilt.

There are a lot of gender-biased laws that implicitly assume men to be offenders and this weakens the very concept of presumption of innocence in criminal law.

d) Recognition of Male Victims

The existing legal systems do not acknowledge men as victims of domestic violence, harassment, or abuse and thus do not provide them with an equal opportunity to obtain justice and legal redress.

e) Avoidance of Gender-Specific Laws Misuse.

Gender-neutral laws will also prevent the abuse of the law in terms of matrimonial and personal disputes, where the law is at times utilized as the tool of influence or revenge.

f) Protecting Due Process and Fair Trial.

Impartial courts of law would foster impartial investigation, decrease arbitrary arrests, and allow the procedural protection provisions to equally be offered to men of accusation.

g) Lessening Social Stigma and Reputational Destruction.

There are always chances of false allegation that can lead to instant social denunciation of men; gender-neutral laws would assist in restoring a balance and guard the dignity of the accused until the time of conviction.

h) Enhancing the Judicial Objectivity.

Gender-neutral approach to the law would help the courts to pay attention to the nature of the crime and facts involved instead of gender identity and this will result in a more equitable judgment.

i) Handling Psycho-economic Effects on Men.

Men who are wrongfully accused usually have to endure psychological traumas, financial loss, and destruction of their careers; balanced laws would help to bring

protection against such unfair outcomes.

j) Adaptation of Laws to the Contemporary Social Reality.

The modern society is aware that victimization is not a gender-specific issue, and thus, the laws should be changed to correspond to the fact that men can also be a victim of legal violations and abuse.

k) Improving the Justice System Credibility.

The gender-neutral law would evoke more trust among the populace in the court of law as it is not biased and all people are subjected to equal protection and accountability.

l) Raising Awareness of True Gender Justice.

Justice is not biased against another gender and thus, gender-neutral changes will help in ensuring that the law secures innocent men without causing failure in dealing with the actual crime.

Through this, straight-only laws are not a preference but a constitutional imperative. It is an important move to stop misuse of protective laws, to save dignity and rights of innocent men, and a check on Justice Delivery System. It would be such a reform that would finally keep justice fair in the country.⁴

3. LEGISLATIVE IMBALANCE AFFECTING MEN IN INDIA

Bharatiya Nyaya Sanhita, 2023 (Indian Penal Code, 1860)

Section 63 of Bharatiya Nyaya Sanhita, 2023 (Section 375 of IPC) defines rape as a sexual assault by a man, against the will of a woman. The section therefore, fails to appreciate the fact that men are also the victims of rape, which is done by women. It is important to note that male victims of sexual assault are and can be so, even men. Even though male rape is not studied as popularly as female rape, some reports and statistics indicate that men are raped and the incidents of such rapes are more than what people expect or know. Additionally, the modesty of a man has no laws that safeguard it. Only section 74 of BNS, 2023 (Section 354 of the IPC) addresses the criminal force on a woman with intentions to outrage her modesty. It does not save men, who are intimidated by women.⁵

⁴ Adarsh Mishra & Manthan Sharma, Gender Neutrality: Needs & Practical Enforcement (2025).

⁵ Legal Eagle, Delhi High Court Flags “Trend” of Settling False Rape Cases, Refuses to Quash FIR (May 1, 2025),

In the case of *Jasleen Kaur v. Sarvjeet Singh*, C.R.P. 73/2024. The case is based on the highly-publicized 2015 "**Delhi traffic incident**" when unmarried woman Jasleen Kaur claimed that Sarvjeet Singh harasses her on social media following a road dispute. The video became viral, causing much outrage to the population, criminal charges, and massive negative reputational consequences to the defendant. Singh then sought justice in the courts such as a malicious prosecution and defamation suit where he claimed that the accusations were not true and had already inflicted an irreparable damage to his reputation and employment. The case before the Delhi High Court was on procedural issues of the malicious prosecution claim. Jurisprudentially, the case points at the legal implications of false public accusation, media trial, and acknowledgment of reputational rights and procedural protections of wrongly accused men in the provisions of the Indian law.⁶

The eleventh hour is right now, and before it is late we must amend the gender-biased laws and protect men against the unreported exploitation.

Although crimes, such as sexual assaults are gender-neutral, they are commonly linked to be perpetrated by men only. And this is one of the key constraints in the process of establishing a GENDER-NEUTRAL SOCIETY. The initial action, which should be made is to accept and establish awareness that even men are molested and sexually assaulted. Secondly, male rape is to be reported significantly. Law should provide protection to the men and section 63 BNS (section 375 IPC) should be extended its coverage to realize the rapes perpetrated by the females on males. Finally, all people should act to develop a framework, which combats all kinds of rapes and attacks.

Section 80 of BNS, 2023 (Section 304B of IPC) which defines dowry death. It is believed that dowry death is the worst tradition in the Indian society. When we hear this word, cruelty of husbands, torturing of in-laws and extortionate material demands are the thoughts that come to our mind. But this is much overstated than it is. The suit is absolutely unjustified in up to 44% of the cases of dowry death that were reported. Although the husband and his family members are innocent in the majority of cases, they have to deal with serious socio-economic effects. This damages the reputation of the family besides consuming their financial resources. In some cases, these effects are so serious as to make the accused husband commit suicide.

⁶ *Jasleen Kaur v. Sarvjeet Singh*, C.R.P. 73/2024 (Del. H.C. May 15, 2024).

The actual issue is not the false cases that are reported but the reality that these offences are non-bailable and cognizable. The provision of the guilty until proven innocent on the accused husband and his family is making the law unfair to the men.

Such cases filed against a man physically, mentally and emotionally exhaust him. The provisions need to be changed to ensure that males are not falsely accused. The complainant should bear the burden of proving the case and the accused is to be considered innocent until found guilty as it is the case in other cases.

In the case of *State v. Nisha Sharma & Others, FIR No. 548/2003 (Dowry Case), Rohini Courts, Delhi (2012)*. Nisha Sharma lodged complaints against her fiancé and his family for demanding dowry on the day of marriage and they were arrested. The case was covered by the media extensively at the time and the narrative was about a strong fight against dowry harassment. But after lengthy trial proceedings, the court in 2012 acquitted those accused, ruling that the allegations were not proven beyond a reasonable doubt and “seems exaggerated”. It drew attention to the misuse of dowry laws and the public shame suffered by those wrongly accused men.⁷

Bharatiya Nagarik Suraksha Sanita, 2023 (CrPC, 1973)

The section 144 of BNSS, 2023 (section 125, CrPC) imposes the responsibility of maintaining parents, wives and children on the shoulders of a man hence only burdening them with the responsibility of earning money and satisfying the needs of the males in the family. Failure by an individual to send monthly allowance to his parents or wife will either make him pay fines or spend a month in prison or until he makes the payment.

As, the section only lays the onus of maintenance on the men; it is in contravention of Article 14, according to which equality before the law shall not be denied to any individual on the territory of India.

The part should, thus, be revised to assign the task of keeping up with everyone who is capable to the task regardless of their gender. It should not be the working hard and earning money that

⁷ Voice for Men India, Nisha Sharma False Dowry Case: After 9 Years, Court Observed Her Decision to Call Off Wedding Was Pre-Planned (July 21, 2021),

should be weighed on a single side of society.⁸

4. SEPARATION, ISOLATION AND FINANCIAL DESTRUCTION EXPERIENCED BY MEN WHO ARE WRONGLY ACCUSED

Male wrongful accusations based on the gender-specific legislation involve the crucial issues of the constitutional fairness and the criminal law practice. The psychological toll on the accused is stunning because the guilt of the accused, the general social reproach, and the years-long stress with uncertainty, courts, and trial have been found to lead to immense mental torment, anxiety, depression, and emotional instability. The criminal justice process itself turns out to be punitive in itself even before the adjudication and hence prejudices the presumption of innocence and right to dignity in Article 21 of the Constitution.⁹

Socially, the fact of the complaint being registered results in instant reputational harm, societal stigma and ostracization. What the accused man is often faced with is media trials, moral judgment, and alienation in the personal and professional arenas. These reactions of society act as extra-legal punishment, which continues even when the accused is found not guilty, leading to permanent damage to social identity and reputation.

In economic terms, false allegations have an unequal economic burden on costs, because of the huge costs of litigation, multiple appearances in court, and economic stagnation. In most cases, the weight gets on to the relatives, especially old parents, who are also found in the lawsuit. Such accrued psychological, social, and economic destruction is a structural imbalance in the judicial procedure, manifesting in the inadequacy of procedural protections that would help to mitigate innocent men to the coercive and lasting impacts of unproven charges.

The cumulative effects of false accusations have in some instances led to suicidal tendencies among the accused men which has been a proven tragedy. The accumulated impact of the societal stigma, the loss of reputation, the length of litigation process, and mental torture all make the environment of the highest level of mental pressure. Constitutionally, these types of consequences are problematic, in terms of breaching the right to life and dignity, in Article 21. The societal assumption of guilt and media attention coupled with professional losses only pose

⁸ Khushi Sharma, Indian Laws That Are Unfair to Men, Jus Corpus (July 2, 2023).

⁹ INDIA CONST. art. 21.

more hopelessness and isolation. There is also no legal protection provided to counter evil allegations in time, and thereby the accused might suffer serious emotional breakdown, thus proving that false allegations can cause irreversible psychological damage and in worst cases, suicide.¹⁰

The Lancet Regional Health, describes a very alarming trend of Indian men socially killing themselves in the period of 2021-2025. Referring to the National Crime Records Bureau (NCRB) data analysis results, male suicide mortality rates increased by a significant factor, and at present, there were more than 1,45,000 deaths of males through suicide in 2025, compared to approximately 1,18,000 in 2021, which is a steep upward trend.

Among the main outcomes of the research is the increasing gender gap in the suicide rates. As of 2021, the suicide rate in men was about 2.6 times more than that of women, which means that men had a disproportionate psychological and social impact. This was a very worrying development especially among married men whose death rate in suicide was almost three times that of married women.

Family-related problems and health were named as the main causes of male suicides in the study, and the number of family-related stress cases among the male population increased over 100 percent during the time of the study. As well, the economically disadvantaged populations and particularly the population earning their daily wages were presenting a drastic rise in the number of deaths by suicide as a result of financial pressures and social strains of the group.¹¹

In the case of *State v. Nikita Singhania & Ors.* 2024. The case of the legal relevance of Bengaluru tech professional Atul Subhash, who died in 2024, has become a legal issue in the discussion of matrimonial litigation and supposed acts of mental cruelty. The dead is said to have committed suicide after years of conflicts in marriage, financial strain, and constant court battles. A suit was filed in the form of an FIR against his wife and relatives charging chronic harassment. In terms of law journal, the case issues are psychological influence of adversarial matrimonial litigation, procedural disequilibrium, and safeguarding of psychological dignity

¹⁰ Kunal Bhardwaj & Meera Raghavan, Psychological Trauma and Legal Harassment Faced by Men in False Allegations and Financial Exploitation, 13 J. Trauma & Treatment 654 (2024).

¹¹ Suresh Sharma & Rahul Kumar, Suicide Rates in India and Its Implications for National Mental Health Programme (Population Research Centre, Inst. of Econ. Growth, Delhi) (2019).

of men.¹²

5. ALTERATION BETWEEN GENDER BIAS AND GENDER DISCRIMINATION

Gender bias denotes ideas, stereotypes, or biased opinions that people in the society hold of others due to gender considerations. It functions at the perceptive and belief level that tends to work subconsciously to affect judgments, interpretations and decision-making processes. The fact that women are considered to be more appropriate when it comes to caregiving duties or that men are less susceptible to abuse is gender biased. Instead, it is gender discrimination that is the concrete and practical expression of this bias. It deals with unfair treatment, discrimination or disenfranchisement of individuals based on gender. In contrast to its counterpart, prejudice, discrimination has the tangible results, including unequal payment, limited opportunities to labour, or different rights in the law. In law, prejudice is perceived as the implicit attitude that can result in discriminatory behaviour, and discrimination is a breach of the equality and may receive constitutional or statutory penalties. Therefore, gender bias is attitudinal, whereas gender discrimination is behavioural and can be prosecuted in court.¹³

6. GENDER STEREOTYPING IN CUSTODIAL DETERMINATIONS

Gender bias in custody decision is a bias where courts tend to lean towards a parent and in many cases, this is the mother, due to a cultural belief of gender roles, instead of making a fair judgment on welfare of the child. Whereas Indian laws of custody are formally gender-neutral, and have the best interests of the child as a primary consideration, the same has also been overtaken by judicial practice, which implicitly assumes that mothers are the main nurturers and fathers are secondary providers. This prejudice is subject to the informal use of Tender Years doctrine, according to which small children are supposed to need a motherly affection, even when their fathers prove to be equally emotionally engaged, stable and capable of caregiving.

This kind of prejudice is also supported by the existing stereotypes in society that depict fathers as financial supporters and not as active caregivers. This means that in many cases fathers are

¹² TOI Tech Desk, "Justice Is Due": Bengaluru Techie's 24-Page Suicide Note Alleges Harassment from Wife, Times of India (Dec. 10, 2024).

¹³ Jenisa Gracias & Arshy Srivastav, Gender Bias in Indian Laws: Addressing the Overlooked, 4 Int'l J. Hum. Rts. L. Rev. 208 (2025).

only allowed limited visitation rights rather than shared or primary custody and also enforcement of such rights is very often lax. The fact that there is no uniformity in the guidelines used to exercise custody within the judiciary also contributes to the lack of uniformity and subjectivity to decisions. This method can work against the changing concept of modern-day parenting where the roles of caregivers are being shared. Finally, sexist determinant of custody places parents at a disadvantage as both stand to lose their equal parental roles as well as holistic growth of the child since they may not enjoy their full participation.¹⁴

In the case of *Roxann Sharma vs. Arun Sharma*, (2015) 8 SCC 318. The Supreme Court ruling on child custody and guardianship. The Court decided that the best interests and welfare of the child are paramount factors to be considered in custody cases and not the gender of the parent. It made it clear that some preference of the mother to custody of a minor child may be found to be general but it should be evaluated on the case facts. The Court also stressed that in custody cases, the decision must be made in terms of emotional, psychological and developmental requirements of the child and not the traditional gender assumption.¹⁵

7. CRITICAL EXAMINATION ON THE MISUSE OF LAWS BY WOMAN

Some of the laws made in favour of women protection and upliftment are at other times said to be abused, thus creating injustice to the male population. It also indicates another aspect of cases where false allegations, especially those involving harassment, cruelty or sexual crimes can lead to tremendous social stigma, legal persecution, and emotional distress to the accused and their families. The analysis cites instances where the courts have ruled complaints baseless to exemplify that legal processes can be utilized as instruments of personal retribution as opposed to redress.¹⁶

Cases like *Arnesh Kumar vs. State of Bihar*¹⁷ are also referred to in the discussion with its judicial observations. State of Bihar, where the Supreme Court recognized the increasing abuse of the Section 85 of BNS (Section 498A IPC), and warned against automatic arrests, stressing

¹⁴ Hritik Rajora & Ayush Tripathi, Gender Bias in Custodial Decisions – A Critical Analysis, 11 Int'l J. Adv. Res. Ideas & Innovations Educ. (IJARIIE) 2098 (2025).

¹⁵ *Roxann Sharma v. Arun Sharma*, (2015) 8 S.C.C. 318 (India).

¹⁶ Bishal Roy & Pratikshya Parashar, Existence of Biasness in Indian Laws Based on Gender, 12 Supremo Amicus (2020).

¹⁷ *Arnesh Kumar v. State of Bihar*, (2014) 8 S.C.C. 273 (India).

on the procedural protection. In addition to this, such cases as *Manju Ram Kalita v. State of Assam*¹⁸ illustrate how the accusations of inhumane practices have been reversed because of insufficient evidence. The main objection is that the lack of punitive measures in the case of false complaints, broad discretionary authority, and gender-based legal frameworks can lead to lack of balance in justice. Nevertheless, the analysis also implicitly acknowledges that protective legislation is not pointless, but should be re-formed in terms of gender-neutral terms, evidence-based and equal protection, as opposed to a weakening of the legal protection of women.

8. CONCLUSION

The paper has shown that the Indian legal system that is historically designed to safeguard women against systemic violence and discrimination has gradually evolved some gender-specific legal processes that can cause procedural and structural unfair advantages to men. The constitutional provisions, statutory provisions, and judicial precedent analysis show that the concepts of equality before the law, presumption of innocence, and the right to dignity in the Articles 14 and 21 should be consistent regardless of gender. Even though such protective legislations as laws on cruelty, sexual offences, maintenance and domestic disputes have an essential social purpose, their gender-based development and occasional abuse cause serious doubts about the issues of fairness, due process, and reputational justice.

The study further notes that the psychological, social and economic impacts of wrongly accused men are devastating due to false allegations, protracted trials, media trials, and social stigma, which can even be used as an extra-legal punishment prior to the court ruling. There are also other problems like custodial stereotype and absence of male victimhood that indicate that there are underlying assumptions in the society that are reflected in the interpretation and application of the law. Nevertheless, the consideration of such issues does not mean that women should not be provided with a solid legal protection, the discussion merely requires a more balanced and constitutionally-oriented measure. In the final analysis, it is necessary to note that gender justice does not mean giving one gender an advantage over the other but a fair legal system that addresses the real victims without violating the rights or dignity of the accused hence building the reputation of the justice delivery system.

¹⁸ *Manju Ram Kalita v. State of Assam*, (2009) 13 S.C.C. 330 (India).

9. SUGGESTIONS AND RECOMMENDATIONS

- a) Some criminal and matrimonial laws, which do not distinguish gender, should also be reformed gender-neutrally so that male victims can receive equal legal and legal protection.
- b) The administrative provisions that encourage random arrests and abuse of gender-protective clauses, should be enhanced, which is consistent with the court decision.
- c) The courts need to be evidence-based and case specific instead of gender stereotyping in the custody and marriage disputes.
- d) The justice system should be sanctified and legal measures to punish malicious and false complaints should be realized successfully.
- e) Police, judiciary, and social awareness and sensitization programmes ought to be initiated to understand the fact that victimisation is gender-neutral.
- f) Individuals with long litigation and wrong accusations must be provided with a fast-track mechanism and mental health support systems.
- g) A review of legislative changes or policies by Law Commission and policymakers periodically is needed to check on the effects of gender-specific laws and to make sure that the Constitution does not contravene equality and due process.

These recommendations would assist in establishing a well-balanced legal system that ensures fairness, elimination of abuses of laws, and substantive gender justice that favours the Indian legal system.