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CONSTITUTIONAL AND LEGAL PERSPECTIVE OF MEN'S RIGHTS IN THE REALM OF INDIAN LAWS

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ABSTRACT

In India, Men are being subjected to violation of rights and facing Discrimination, Marginalization, and Gender-based Violence. The evolution of legal system in India made laws favorable towards women in matters related to Dowry, Domestic Violence, Custody, Divorce, Alimony and Sexual harassment, etc. Lopsided focus on securing women's rights is creating an exploitative environment for men which is deepening gender gaps of society instead of bridging them. The rise in the cases of men's sexual harassment, domestic violence, false dowry accusations and disadvantage in matters related to custody of children scarcely find mention of public discourse. Legal System which creates a progressive and inclusive environment for all, which secure and promote Justice, Equality and Equity in true spirit is the need of an hour.

This research paper aims to review the existing Constitutional Provisions, Statutes, Precedents, Literature from a gendered perspective followed by an in-depth analysis of primary and secondary sources. This research paper suggests an alternative view to reconsider, amend and alter existing laws that are failing to secure gender equality and neutrality. This research paper aims to demonstrate the practical differences of rights between both the rights genders in India and highlights the approach for the gender neutralization.

KEYWORDS

Evolution, Custody, Marginalization, Reconstruction, Discrimination, Equality.

NEED AND EVOLUTION OF WOMEN'S RIGHTS

Indian society evolved to be a male dominant which led to marginalization of women in medieval and modern era. The Preeminence laid with the men in the dome of control and authority, either it's right to vote or the right to file for divorce, right to custody, right to own or transfer the property, right to study and right to participate in public life. Before the 19th and 20th century, India remained a country where the prestige of women was overlooked owing to the customs carried on by the people. India simultaneously moves towards with the ideas to promote gender neutrality to facilitate women's empowerment, which certainly ensued. The Alteration in the condition of women, by way of educating women with their rights via Government initiatives, Legal and Policy reforms, Community based initiatives, Awareness programs like Beti Padhao Beti Bachao Yojna, Sukanya Samriddhi Yojna etc., the creation of these programs encouraging women are being done with the motive to create a sense of responsibility and balance in respect of gender roles. Acts like The Protection of Women from Domestic Violence Act, 2005 (PWDVA) is a legislation made for the protection of women against the domestic violence, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, (POSH) 2013, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Indecent Representation of Women (Prohibition) Act 1986, these legislative proposals has truly made a difference, but the enormous role was played by FEMINISM, when we discourse on Feminism, it procured four waves for Feminism to triumph, but India is lacking with neutralization, gender biased laws has been affecting the men prejudicially since the laws which were constructed with the sense of balance and to cultivate the under developed gender, have been acting divergent. When we confer the rights of men, it isn't determined undisclosed so far, but there should be ingenious interpretation of laws by the law-making authorities. The thought of protecting men's rights have been sowed in India since 1920s (Men's Right Movement).

"In a society dominated by women in India, laws on sexuality, marriage and divorce have been acting as a burden on men. Discussion on men's rights has become a topic for various organizations. A combination of feminist ideology and men's reluctance have become the reason for uncovering physical abuse with men".[1] It is always believed that Men are accustomed of being prioritized in the field of gender, which is undeniable as the world being

[1] *Michael A. Messner, 'the Limits of "the Male Sex Role": An Analysis of the Men's Liberation and Men's Rights Movements' Discourse' (1998) 12 Gender and Society 255.*

a male dominated society until the waves of feminism popped up in the view. Due to the constant increase in dowry cases, harassment, and domestic violence cases, the Indian legislation constructed laws promoting women empowerment: Education, Fundamental rights of women, Voting power, etc. The wave of Feminism brought enormous variance in the rational of people, fostering an environment for women empowerment, and that could only be possible via FEMINISM. "In the men's rights movement it was claimed that men too suffered discrimination and mistreatment as women."[2] It is always believed that Men are accustomed of being prioritised in the field of gender, which is undeniable as the world being a male dominated society until the waves of feminism popped up in the view. Due to the constant increase in dowry cases, harassment, and domestic violence cases, the Indian legislation constructed laws promoting women empowerment: Education, Fundamental rights of women, Voting power, etc. The wave of Feminism brought enormous variance in the rational of people, fostering an environment for women empowerment, and that could only be possible via FEMINISM.

WAVES OF FEMINISM

The first wave approached with an uncomplicated motive i.e., to make the alteration in the mindset of people. Before the 19th and 20th century, prioritization of the rights of women became the ultimate motive of the era. The first wave of Feminism was the first political movement for the rights of women for the western world. In 1960s and 70s, when the second wave took place, the main objective was to identify women's role in the society and why the rights of women are being oppressed. In the second wave, Queer theory became more recognized, the question was raised on the gender and sexual differentiation. "In 1970s activism, the women leaders demonstrated the possibilities and opportunities for younger women to step into various fields of power and leadership and do not restrict them towards the traditional approach. In the second wave of feminism, women activists were active in every possible way by engaging simultaneously in numerous types of activism including labor unions, community movements, etc."[3]

While the first and second wave mainly focused on the rights of women, third wave move

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[2] *Theresa Iker, 'The Debate Whether Men Have Been Left Behind Is Decades Old' (Time, 12 December 2024)<https://time.com/7199692/mens-rights-feminism-history/> accessed 30 July 2025*

[3] *Becky Thompson, 'Multiracial Feminism: Recasting the Chronology of Second Wave Feminism' (2002) 28 Feminist Studies 336, 338.*

towards with the racial disparities within the gender, and Feminism was intensifying. After 2012, when the fourth wave exhibited, the subject matter was sexual harassment, rape, body shaming women and other issues. "Unlike the traditional approach, this wave approached with a clear purpose i.e. to neutralize the differentiation between "working women" and "housewives."[4]

CONSTITUTIONAL PROVISIONS FROM GENDER PERSPECTIVE

In India, the laws discussing the gender biasness in the society, and by "Gender Biasness" we constantly mean the biasness towards women only. In the historical period, men were promoted with ample number of rights while women were the subordinate. With the surfacing days, provisions for dowry, sexual harassment, custody, domestic violence have been introduced with stricter punishments. India have always been trying to curb the difference in gender though it has not certainly resulted for the benefit of both the genders. In India, amidst the void is being filed with the help of gender neutralization, it is indirectly leading to disadvantages to men. The core idea behind gender equality is to bring parity among genders and not to facilitate a particular gender with preferential benefits. In Indian constitution, the Articles that aims to provide fundamental rights are, in some of the circumstances working as a core disadvantage to the men in our society.

i. ARTICLE 14

ARTICLE 14 of the Indian Constitution states that "The State shall not deny any person equality before law and equal protection of law within the territory of India[5]". Women had been subjected to the matter of discrimination and inequality from the beginning and right to equality is a fundamental right given in the constitution of India so that they can participate equally with men in all aspects of life thus in order attain gender equality, equal access to all the opportunities, powers and liabilities to all is necessary. "Article 14 validates the equal distribution of privileges as well as liabilities amongst individuals. However, if there is any unreasonable classification amongst individuals under the aegis of equality before law, it can be declared unconstitutional as well".[6]

In the case of *Anuj Garg & Ors. Vs. Hotel Association of India & Ors. 2007*[7], the act of

[4] *Nannerl O. Keohane, 'A Fourth Wave?' (1986) 10 TWQ (1976) 154.*

[5] *The Constitution of India, art 14.*

[6] *Subrata Roy Chowdhury, 'Equality before the Law in India' (1961) 19 TCLJ 223.*

[7] *Anuj Garg & Ors. V. Hotel Association of India & Ors (2008) SC 663.*

prohibition of women was stated to be ultra vires Article 14 and stated that preventing the large group of women from working in some circumstances is unjust and unfair and discussed the rights of women in international jurisprudence suggesting adopting relevant principles.

"The Principle of Natural Justice helps in the prevention of miscarriage of Justice, These Principles also check the arbitrary power of the State."[8]

In the case of *Vishaka v State of Rajasthan*[9], the court held that Sexual Harassment of women violates the fundamental right of equality of women along with the Article 19 and 21 i.e., Right to Freedom and Right to Protection of Life and personal liberty and sexual harassment at workplace implicitly comes under the ambit of violation of fundamental rights under Article 14, 19 and 21.

ii. ARTICLE 15 & 16

Article 15 of the Indian constitution is "a Fundamental right which prohibits discrimination on the grounds of religion, caste, race, sex and place of birth or any of them" [10] and clause (3) deals with the "special provisions to be made for women and children".[11] "This clause contradicts with the first two clauses and acts as an exception due to the prevalence of women's subservient social position in the society hence introducing special clauses which provide certain privileges like maternity relief, free education and laws on exploitation of women on certain places is considered justified under Article 15 (3)".[12]

In the present time, Women has been relishing reservation in various fields including public transportation, educational institutions, political participation, competitive examinations, government services, etc. Article 15 (1) works as a backdrop of an affirmative action for uplifting the status of women in our society. Government schemes like Mission Indradhanush, Sukanya Samriddhi Yojna, TREAD Scheme etc., introduced with the motive to encourage women of our society.

In the case of *Dattatraya Motiram More v. State of Bombay*[13], the court held the Article 15(3) permits the positive discrimination in favour of women and it shall not said to be violative with

[8] *AK Kraipak V. Union of India (1970) SC 150*
[9] *Vishakha v. State of Rajasthan (1997) SC 3011.*
[10] *The Constitution of India, art 15 (1).*
[11] *The Constitution of India, art 15 (3).*
[12] *J. K. Mittal, 'Right to Equality and The Indian Supreme Court' (1965) 14 TAJOCL, NO 422.*
[13] *Dattatraya Motiram More v. State of Bombay (1953) ILR1953 Bom 842.*

Article 15(1) of the Indian constitution as it is a special provision for the Benefit and Upliftment of women in the society, Additionally stated that if discrimination exists in favour of one gender but not only on the grounds of sex, race, or the other grounds mentioned under article 15(1) then such discrimination shall be considered constitutional and permissible.

While Article 16 (1) of the Indian constitution provides that "there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State"[14] and "Clause (2) states that No citizen of India shall be considered ineligible of any public employment which could deliver economic benefits".[15] In India, employment discrimination subsists in the form Harassment, Unequal pay, Job postings, Glass ceiling etc.

In the case of *Kush Kalra vs. Union of India (2014),* the Supreme Court, on a writ petition filed by the petitioner, held that excluding women from joining Indian Territory Army as an officer on any of the grounds specified in Article 16 shall result in discrimination. The Court also added that both married men and married women should have equal rights under similar circumstances.

iii. **ARTICLE 21**

"Article 21 of the Indian constitution states that no person shall be deprived of his life or personal liberty except according to procedure established by law"[16]. Article 21 has broadened the perspective of right to life and personal liberty, as it provides protection to women in the cases of abortion, adultery, domestic violence, sexual harassment, etc., and to assure that the world is impregnable but not precarious for women. But later, the court held the right to privacy and reputation as a part of the right to life and personal liberty and not subject to be curtailed "except according to the procedure established by law".[17]

In the case of *Suchita Srivastava v Chandigarh Administration*, the Supreme Court stayed the order of Punjab and Haryana High Court while stating that the "right to reproductive choice" comes under the sphere of Article 21 and taking away that would infringe her right to privacy and the court further differentiated between mental illness and mental retardation.

*"*There is no doubt that a woman's right to make reproductive choices is also a dimension of 'personal liberty' as understood under Article 21 of the Constitution of India. It is important to

[14] *The Constitution of India, art 16 (1)*
[15] *The Constitution of India, art16 (2).*
[16] *The Constitution of India, art 21.*
[17] *Sunil Khosla and M.M. Semwal, 'Human Rights Jurisprudence in Indian Constitution Right to Equality and Life: Concept And Substance' (2011) 72 IJOPS 927.*

recognise that reproductive choices can be exercised to procreate as well as to abstain from procreating. The crucial consideration is that a woman's right to privacy, dignity and bodily integrity should be respected. This means that there should be no restriction whatsoever on the exercise of reproductive choices such as a woman's right to refuse participation in sexual activity or alternatively the insistence on use of contraceptive methods".[18]

Other provisions in our Indian constitution for the empowerment and upliftment of women include "Article 39 (a) which states that the citizens, men and women equally, have the right to an adequate means of livelihood"[19], "Article 39 (d) provides that the state shall direct its policy towards securing: that the citizens, men and women equally, have the right to an adequate means of livelihood"[20], "Article 42 is a Provision for just and humane conditions of work and maternity relief"[21], "Article 51 A(e) states it is a fundamental duty of every citizen of India to renounce those practices which are derogatory to the dignity of women"[22], "Article 243D (3) provides that not less than one third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes), of the total seats in Panchayat election, shall be reserved for women"[23] and "Article 243T (3) provides that that not less than one third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) in Municipality elections".[24]

LEGISLATIONS MADE FOR PROTECTING WOMEN IN INDIA

The Ministry of Women and Child Development has introduced some laws for the protection of women such as:

I. The Protection of Women from Domestic Violence Act (PWDVA), 2005

The Protection of Women from Domestic Violence Act (PWDVA) is a law passed by the Parliament of India to protect women from domestic violence which not only includes physical violence against a woman but also physical abuse, sexual abuse, verbal, emotional abuse and economic abuse.

II. The Sexual Harassment Of Women At Workplace (Prevention, Prohibition And

[18] *Suchita Srivastava &Anr. Vs. Chandigarh Administration (2009) INSC 1086*
[19] *The Constitution of India, art 38 (a).*
[20] *The Constitution of India, art 38 (a).*
[21] *The Constitution of India, art 42.*
[22] *The Constitution of India, art 51 A (e).*
[23] *The Constitution of India, art 51 A (e).*
[24] *The Constitution of India, art. 243 T (3).*

Redressal) Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 also known as POSH, is a law which provides protection to women from sexual harassment at workplace.

III. The Dowry Prohibition Act, 1961

The Dowry Prohibition Act came into force on 1st May, 1961. This law aims to prohibit the practice of dowry and provides protection to women in dowry cases

IV. The Indecent Representation Of Women (Prohibition) Act, 1986

The Indecent Representation of Women (Prohibition) Act was introduced on 23rd December 1986. This law prohibits advertisements, publication or sending by post of books, pamphlets, etc. containing the indecent representation of Women in India and penalize those persons who contravene with the provisions of this act.

V. The Maternity Benefit Act, 1961

The Maternity Benefit Act came into force on 12th December 1961 with the aim to provide protection and safeguard the rights of a working woman in her maternity period. This law makes sure that the women receive paid maternity leave to recover from childbirth and not subjected to any disadvantage due to pregnancy.

CURRENT SITUATION OF MEN IN INDIA

In present time, the laws which have been made for women empowerment, are being used as a weapon against men. False cases of Harassment, Domestic violence, Custody, Alimony, Dowry against men are being filed, and the provisions for women's rights are dispersed in various statutes while creating an imbalanced approach towards the rights of men and women.

MAINTENANCE

In the cases of maintenance, provisions exist to provide maintenance to wife, which includes the food, shelter and clothing, However the law solely intended to provide basic necessities to women and that fluctuates on the basis of position and status of women in the society, so limiting the law to the necessities do not fulfil the objective lies behind. Women have been taking an objectionable advantage of these provisions, the cause behind the approach is the misinterpretation of provisions. "Section 25 of the Hindu Marriage Act, 1955 states that while

giving the order of maintenance or permanent alimony the court will consider:

- The respondent's income and property
- The applicant's income and property
- The conduct of both parties[25]

In majority of the Alimony cases, the burden of alimony has been falling on men of our society, while the origin of law intended to alleviate the financial independency of the spouse. Women persisted to abuse these provisions since they have been presented with equal opportunities and financial independency, so the assumption of being incapable in terms of money seems invalid. In Bhartiya Nagrik Suraksha Sanhita, 2023, "Section 144 allows a wife, children, and dependent parents to claim maintenance from men if they are not having sufficient means to maintain themselves" [26]and "Section 145 of Bhartiya Nagrik Suraksha Sanhita, 2023 states the procedure of maintenance against men" [27] however there is no established procedure for men to claim maintenance and no comparable rights have been given to men in terms of maintenance. Presumption of economic superiority have been lying on men irrespective of the financial status of women, and even in cases where women hold more financial power, men have been ordered to pay alimony. Unnecessary post-divorce burden on men is the leading cause of depression, anxiety and struggle for their own survival.

In the case of *Kalyan Dey Chaudhary vs Rita Dey Chaudhary Nee Nandy*, the husband (Kalyan Dey Chowdhary) challenged The Calcutta High Court order under section 25(2) of the Hindu Marriage Act, 1955, to enhance the amount of maintenance payable to the wife (Rita Dey Chowdhary) from Rs. 16,000 to Rs. 23,000 per month as per section 125 of the CrPC. The issues this case were: 1) Whether the enhancement of maintenance was justified by the High Court? 2) Whether the change in the maintenance would affect the maintenance? In the court, the applicant contended that the court ought not to have enhanced the order of maintenance as the respondent (wife) is a qualified beautician and a Montessori teacher and is paid Rs. 30,000/- per month and son has attained majority and capable of being financially independent, consequently enhancing the amount of maintenance would not be fair to him. After listening

[25] *The Hindu Marriage Act 1955, s 25*
[26] *Bhartiya Nagrik Suraksha Sanhita 2023, s 144.*
[27] *Bhartiya Nagrik Suraksha Sanhita 2023, s 145.*

to both the parties, the court enhanced the maintenance from Rs. 16,000 to Rs. 20,000 considering the change in the circumstances of the parties. In this case irrespective of the earnings of the wife and an adult son, husband had been ordered to pay the maintenance, shows the disorganization of laws and discrimination with men of our country.

Recently, High Court of Kerala has set aside an order of a Family court rejecting the claim of maintenance of wife who has waived her right for future maintenance in a settlement agreement, where the husband paid Rs. 30,000 as a full and final settlement. The Family court held on the rational that the wife failed to prove that she was unable to maintain herself, dismissed the petition. The High Court of Kerala while setting aside this judgement held that according to section 37 of the Indian Divorce Act, 1869 wife shall be entitled to claim maintenance after obtaining the decree of dissolution of marriage or judicial separation and the husband shall be liable to a sum monthly or weekly for her maintenance though there are no analogous provisions for the husband irrespective of his incapability to even maintain himself or his parents, he shall be made liable to pay the sum.

The situation of men in India remains that irrespective of husband has already paid the sum of maintenance, the wife shall be having a right to claim future maintenance at any point of separation of marriage and on the other side, the husband do not stand with any rights to claim maintenance either during the separation or after the decree of separation. This Discrimination among genders with respect to maintenance had always been there in our judicial system, of which women are taking a despicable advantage. Nowadays, the objective of the maintenance has become to punish men but not to give assistance to the dependent spouse. In 2022, Indian cricketer Yuzvendra Chahal (Husband) separated from Dhanashree Verma (Wife) who is a Choreographer, YouTuber and a Dentist, in respect to this matter, the Family Court ordered 6 months cooling-off period for reconciliation. After filing a joint petition for divorce with mutual consent, the Bombay High Court waived off the 6 months cooling-off period given for reconciliation under Hindu Marriage Act, stating that the couple has already been living separately for 2.5 years and ordered the family court to decide the matter. Later, the husband (Yuzvendra Chahal) was directed to pay a sum of Rs. 4.75 crore to the wife (Dhanashree). However, in this case, the wife who is sufficiently capable of maintaining herself and has no child from that wedlock, shall be receiving the alimony on the grounds of basic necessities. In India, the undefined terminologies like Maintenance and Basic necessities demonstrates the feebleness of our legal system and displays how this has been creating gender biasness. It is clearly comprehended based on the orders passed by the courts in relation to maintenance that

the Basic necessities of a wife have been contingent on the earnings of the husband. There are no fixed standards to determine the necessities of a woman though if we dig into the reality, in majority of the cases irrespective of if the wife is capable to maintain herself, the husband had been ordered to pay the alimony.

SEXUAL OFENCES

In India, Men have been the victim of sexual offences but since there are no established laws and procedures for men in relation to that, majority of the cases are left being unregistered. In Rape cases, most of the decision remains conviction, this shows the lack of inspection and injustice with men of our society. The laws which are introduced to protect women, have been acting as a sword against men. "According to the National Crime Record Bureau (NCRB), in rape cases filed under Section 376 of the Indian Penal Code, there has been an acquittal rate of about 74%", hence it shows that even after being stringent in favor of women, order of acquittal has been passing in supermajority of the cases. [28]If we delve into the cause of false cases against men in relation to sexual offences, it can be found out that women have been using these laws with an intend to extract money or defame the accused, there has been a clear misuse of power and laws. In majority of the rape cases, where the girl is minor, the boy would be falsely accused of rape by girl's parents, the laws which are introduced to provide justice to the victim via penalizing the offender, have been unjustifiably bias towards victim. In the current situation, there is a massive difference of treatment between the victim and the accused, since rape is a non- bailable offence, victim applies for Anticipatory bail which usually gets rejected by the courts hence the accused are left with no options. Men have been facing other damages with on-going trials due to these false allegations like loss of job, social prestige, etc. which is leading men to depression, anxiety and mental illness. In the present time, there exists no definition for a rape of men, according to Section 63 of Bhartiya Nyaya Sanhita corresponding to Section 375 of Indian Penal Code.

"A man is said to commit "rape" if he:

1. penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
2. inserts, to any extent, any object or a part of the body, not being the penis, into the vagina,

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[28] *Azhar Ahmad Khan, 'Case Study on false rape allegation in India', (THE AMIKUS QRIAE)<https://theamikusqriae.com/case-study-on-false-rape-allegation-in-india/> accessed 20 August 2025*

the urethra or anus of a woman or makes her to do so with him or any other person; or

3. manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
4. applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:
   a. against her will.
   b. without her consent.
   c. with her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.
   d. with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
   e. with her consent when, at the time of giving such consent, by reason of mental illness or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
   f. with or without her consent, when she is under eighteen years of age.
   g. when she is unable to communicate consent".[29]

In the given definition, it can be undoubtedly comprehended that the law does not recognize the rape of men. Our legal system has been lacking specifically with the provisions of sexual offenses with men of our society. Recently in May 2025, a complaint was filed against Siddhartha Tiwari for raping an eight-year-old girl u/us 375 of Bhartiya Nyaya Sanhita, 2023 and POCSO Act in Prayagraj (Lohanda). Accused was arrested on the next day of receiving a complaint, in the course of the investigation, police formed a Special Investigation Team (SIT) to investigate the matter. Later it found to be false rape case, since Rape is not a minor offence, it made a significant impact on accused and accused's family, the father of an accused committed suicide as he couldn't succeed in proving his son's innocence during the investigation. False rape case has been leaving an unacceptable effect on men and their family

[29] *Bhartiya Nyaya Sanhita 2023, s 63.*

as this allegation impact a men's reputation, goodwill, mental- being, etc., Cause of a gradual increase in the number of false rape cases is non- existence of punishment in such cases. In February 2025, it was found that two women has filed 7 and 8 rape cases from 2014 to 2022 though it stands legitimate to say that it is facile to file a case of sexual offence against men in our country. In our legal system, there exists no provisions for punishment of a false rape due to that women nowadays have been taking an unfair advantage of these provisions against men. In 2021, the Supreme Court recapitulated a judgement where it stated that accused can be convicted for rape exclusively based on victim's testimony if the court found it to be credible and trustworthy. This demonstrates that laws which are introduced for the safety of women have been acting women-centric in India, and total disadvantage is being borne by men of our society.

Other Sexual Offences related are section 376B of Indian Penal Code, 1860 corresponding section 67 of Bhartiya Nyaya Sanhita, 2023 states that: "Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine". [30] However, this provision does not contain any punishment for any non-consensual acts with husband by his wife, our law specifically conferences about the rights of women only. Section 69 of the Bhartiya Nyaya Sanhita, 2023 states that "Whoever, by deceitful means or by making promise to marry a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine" [31]although there is no parallel provision to punish a woman if she falsely promises a man to marry. Other provisions for sexual offences specified in Bhartiya Nyaya Sanhita, 2023 which have been specifically lacking in protecting the rights of men of our society are Section 74- "Assault or criminal force to woman with intent to outrage her modesty"[32], Section 76- "Assault or use of criminal force to woman with intent to disrobe"[33], Section 77- "Voyeurism"[34], Section 78- "Stalking"[35], Section 79- "Word, gesture or act

[30] *Bhartiya Nyaya Sanhita 2023, s 67.*
[31] *Bhartiya Nyaya Sanhita 2023, s 67.*
[32] *Bhartiya Nyaya Sanhita 2023, s 74.*
[33] *Bhartiya Nyaya Sanhita 2023, s 76.*
[34] *Bhartiya Nyaya Sanhita 2023, s 77.*
[35] *Bhartiya Nyaya Sanhita 2023, s 78.*

intended to insult the modesty of a woman"[36].

In December 2024, a case of harassment was disclosed, Atul Subhash and Nikita Singhania got married in 2019 and had a son in 2020 and the couple had been living separately for three years. In 2022, the wife filed a petition for divorce where she alleged husband, his parents and his brother of harassment and dowry. After fighting for the custody for two years, Atul Subhash (husband) committed suicide and left a suicide note of 24 pages and a video recording of 81 minutes where he made a disclosure about the false allegations made by his wife.

In the video recording, he alleged his wife and her family of extortion as they have been demanding money amounting to Rs. 3 crore to settle the case, he also stated how our legal system follows such a biased approach towards the cases of harassment and dowry and requested for the custody of his four year old son to be given to his mother named Anju Devi, later after the arrest of his wife and her mother and brother, they were granted bail. In the video recording, Atul Subhash demanded justice along with that he stated how his wife and her family had been constantly harassing him for money and despite of struggling with this harassment himself, he was alleged of harassment by his wife, this reflects loopholes in our legal system towards men and misuse of laws by women in the society which fails to secure complete justice. He also claimed that his wife and her family had not been using the maintenance money to maintain their child and herself but only to escalate the number of legal battles against him and his family. In the case when Atul Subhash found out that his wife and her family had been filing these cases with the sole purpose of extorting money, he ended his life by committing suicide. It was found out that Atul Subhash's wife had filed total 9 cases against him including allegations of dowry, harassment and murder out of which some of which were proven false or withdrawn.

Despite of increasing cases of sexual harassment, false dowry representation, maintenance with the motive to extort money, false rape, etc., there exists no equivalent legislation to protect men in India. This issue of gender biased law is not new in India, the women of our society have been misusing these laws from a long time when women were protected under section 498A and 304B of Indian Penal Code, 1860. In 1998, in the public meeting of Purush Hakk Surakshan Samiti at Mumbai, which was held with the purpose of addition of a new section 498B as replacement of Section 498A which would include Husbands as well within the domain of domestic violence, they discoursed on the 3000 husbands against whom false cases were filed

[36] *Bhartiya Nyaya Sanhita 2023, s 79.*

under Section 498A, later in 1955 the Bombay High Court agreed on how there had been a misuse of Section 498A.

A SENSIBLE APPROACH TO FILL THE GENDER GAP OF LEGAL PROTECTIONS

As we have discussed in this research paper about the laws which were introduced with the motive to empower and uplift women are being used as a weapon against men in India, the laws should be applied to achieve justice have been becoming the reason for injustice with men. The constitutional provisions such as Article 14 which demonstrates equality among both the genders has been misused by women of our country. The whole purpose remained behind this article to provide an equal status to both the genders in the society, however with the changing era, the circumstances also seem to change where women have been given unjustifiable advantages in every aspect which is leading to discourse on the gender gap in legal protections. Recently a PIL was filed before the Supreme Court for the constitution of National Commission for Men, "the Supreme Court while rejecting the petition highlighted the necessity for a balanced approach towards both the genders without a one-sided picture".[37]

However, constituting National Commission for Men cannot be considered as the sole way out to bridge the gender gap of legal protections rather restructuring, altering and renaming the existing National Commission and making it a commission which provides legal protection to all. Here when men are probing for a gender-neutral law, it is important to note that Article 14 is a constitutional provision that provides equality and equal protection to both the genders, therefore demand for a gender-neutral commission, is merely like exercising a constitutional right under Article 14. Since Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, place of birth or any of them however making a commission for both the genders is not just about replacing the existing commission but also about making provisions that helps in fulfilling India's obligation to provide justice to all the genders. Institution of National Commission for both genders would prevent the misuse of laws by any of the gender and lead to a balanced implementation of laws, it would be helpful in ensuring parity in legal matters with respect to gender view. India shall be able to create an instance on an international level to demote gender disparity and promote laws which prevent bigotry based on gender. The National Commission for both the genders would focus on the issues of men and others as

[37] *Barkha Trehan, 'Court Declined To Hear The Demand For National Commission For Men: Are Men Second Class Citizens In India?' THE TIMES OF INDIA (India, 16 January 2025)<https://timesofindia.indiatimes.com/blogs/men-ki-baat/court-declined-to-hear-the-demand-for-national-commission-for-men-are-men-second-class-citizens-in-india/ accessed> accessed 30 August 2025*

well and aware public on genders disputes from all the perspectives whereas in the cases of maintenance, custody, rape, etc., where laws often favor women, this commission will help in achieving justice without any incline towards any gender.

In India, both men and women are aggrieved from domestic violence and harassment hence introducing such legislations which protects both genders with a balanced approach is vital in India. When we address sexual harassment, law recognizes the victim to be women and the accused be men and where the sexual harassment generally takes place is workplace. In India there exists no remedies and comparable laws on Harassment against men, legislations like Sexual Harassment at workplace specifically refers to women in our country and Vishakha guidelines have laid down for prevention of sexual harassment of women at workplace. Section 2 (a) and 3 (4) of the POSH (Prevention of Sexual Harassment) Act, 2013 specify the aggrieved person to be women only and provides no legal protection and remedy to men and other provisions like Section 354, 509 and 376 of Indian Penal Code, 1960 are solely focused on protecting women.

The Supreme Court noted that while the primary aim of the statute is to protect women across various aspects of life, "the term "Respondent" in section 2 (m) of POSH Act refers to all genders however this approach of making the gender factor constant in such matters would encourage men in being vocal about their rights against harassment and domestic violence".[38] Establishment of legislations for the protection of both the genders is the need of an hour in India, which rather focuses on ensuring justice and fair treatment to all but not on promoting one gender. In the cases of domestic violence and sexual harassment, law recognizes the victim to be women in India which is leading to depression, anxiety, and suicides amongst men however introducing such legislations which takes responsibility for the dignity of both the genders is necessary to be introduced in India.

In India when we address domestic violence, as per established law we perceive the victim to be women always, nowadays with the change in circumstances both men and women are the victims of domestic violence but there exists no legislations for aggrieved men in India. "In a survey of 100,000 males conducted by Save Family Foundation and My Nation Foundation in

[38] *Ishita Sharma and Pragati Patidhar, 'Redressing the Imbalance: Legal Gaps in Protecting Men from Workplace Sexual Harassment', [2024] MANUPATRA <https://articles.manupatra.com/article-details/REDRESSING-THE-IMBALANCE-LEGAL-GAPS-IN-PROTECTING-MEN-FROM-WORKPLACE-SEXUAL-HARASSMENT> accessed 10 September 2025*

the period of April 2005 to April 2015, it was found out that 98.2% of men had suffered grievous domestic violence (including physical, verbal, economical, sexual, mental, emotional, and financial abuse) from their wives and in-laws".[39] However stringent investigation for the cases of domestic violence is necessary to attain justice as with the changing time the laws made for the protection of women from domestic violence needs to be altered and restructured for the protection of both the genders. In the case of Arnesh Kumar vs State of Bihar (2014), "the Supreme Court stated that arrest made on the basis of the offence being non-bailable and cognizable is the infringement of rights of a person and the arrest must be made on reasonable grounds and is mandatory to be presented before the magistrate within 24 hours of making the arrest by the police officer".[40]

Recently in a case of cruelty and violence filed against woman, Delhi High Court stated that both men and women should be entitled to equal protection under law and court must not be inclined towards one gender as showing leniency based on gender would deteriorate our legal system and could be the reason for injustice as well. "The Court added**,** such categorization would propagate the spurious belief that men cannot suffer domestic violence in relationships. Hence to attain justice, the courts must recognize the need for gender neutral approach in such cases, where the both the genders are treated alike".[41] India needs legislations that not only promote gender equality but also provide justice to both the genders specifically in the cases of rape, sexual harassment, domestic violence, maintenance, etc. The Fact that men are also the victims of rape and sexual harassment is undermined in India, according to the Indian definition of rape women solely are the victims of rape. According to section 376 of IPC, 1960 corresponding section 63 of BNS, 2023 which defines rape and from the definition it seems clear that law recognizes a victim to be women and an offender to be men and it has no clause for the rape of a male. Indian Rape laws need to be altered as this definition do not have any provisions that penalise the offender of a male rape. There exists no law if a male is raped by a male or female, this inequality on the basis of sex is flouting Article 14 and 15 of the Indian constitution though Article 15(3) do allow to make special provisions for women and children

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[39] *Lalit Bhardwaj and Babu Shivnath Agrawal, 'Sexual Harassment of Men: A Crime that is a Reality' (2023) 2 Indian Journal of Integrated Research in Law 7 <https://ijirl.com/wp-content/uploads/2022/06/SEXUAL-HARASSMENT-OF-MEN-A-CRIME-THAT-IS-A-REALITY.pdf> accessed 15 September 2025*

[40] *Shivalika Midha, 'Are men defenceless against domestic violence laws? What SC says about men's rights in these Cases', The Economic Times (India, 05 March 2025)*

[41] *Men Welfare Trust, 'Men too are entitled to same protection from cruelty and violence as women: Delhi High Court' <https://www.menwelfare.in/judgements/men-too-are-entitled-to-same-protection-from-cruelty-and-violence-as-women-delhi-high-court/> accessed 28 September 2025*

but it doesn't prevent the legislators from makings any provisions for other genders as well. In countries like Scotland, definition of rape under Sexual Offences (Scotland) Act was altered and the term 'women' was replaced with 'person' which included male victims of rape under the definition and in USA, definition of rape was altered in Criminal Justice and Public Order Act, 1944 and this was considered as the first time when efforts were made to provide protection to the male victims of rape and in Canada also, changes were made in the definition of rape with the view to make it gender neutral. Altering these laws in India would help in spreading awareness among public regarding male rape and sexual harassment. The 174nd law commission of India in March 2000 recommended that rape laws in India should be made gender – neutral to protect male victims too.

GENDER NEUTRALITY IS THE SIMPLE REORGANIZATION OF REALITY MEN SOMETIMES FALL VICTIM TO THE SAME OR AT LEAST VERY SIMILAR ACTS OF THOSE SUFFERED BY WOMEN.

MALE RAPE IS FAR TO BE PREVALENT TO BE TERMED AS AN ANOMALY OR A FREAK INCIDENT. BY NOT HAVING GENDER- NEUTRAL LAWS, WE ARE DYING A LOT MORE MEN JUSTICE THAN IS COMMONLY THOUGHT.[42]

In India, it is prerequisite to amend dowry laws since the laws which were introduced with the purpose of protecting women from dowry, have been misusing by the women of our society. Laws like Dowry Prohibition Act, 1961 and Section 498A of Indian Penal Code, 1960 i.e. Husband or relative of husband of a woman subjecting her to cruelty are the provisions which were introduced to protect women from injustice, have become the reason of injustice with men of our society. Since our law do not contain any punishment for fake dowry cases, there has been a serious misuse of these provisions against men by way of filing fake dowry cases against men. Recently in April 2025, in a case named Sushila & Ors.vs State of Uttar Pradesh, the couple solemnized their marriage in June 2010 and after being separated in October 2010, the wife alleged his husband and his relatives of dowry u/s 498A of IPC, 1960 and section 4 of the Dowry Prohibition Act, 1961, the Supreme Court held that involving relatives of the husband on the basis of vague and general allegations would abuse the legal process so there should be clear evidence of the involvement of his relatives. This case highlights how these laws could be a reason of disadvantage for men of our society and it shows the necessity to amend the existing provisions to ensure justice to all. Since the Dowry Prohibition Act, 1961

[42] *Aakansha Latala and Ishika Agarwal, 'The Silent Male Rape Victims in India' (2020) 3 International Journal of Law Management & Humanities 434*

do not contain any provision of punishment on filing false case, it has led to a significant rise in the false cases of dowry, however it is important to introduce provisions which prevent people from making false dowry allegations.

CONCLUSION

As stated by Henry Ward Beecher, *"A law is valuable not because it is law, but because there is right in it."*[43] Therefore opportunities as well as right to opportunity both stand together. To highlight the issues and eradicate the false narratives that has been set for men and women both in the society, restructuration and alteration of laws is most necessary in India. Although even after various additions and amendments, the laws are structured and organized in a way that follows traditional approach. Hence with an attempt to highlight the need for gender neutral laws and for the removal of those stereotypes which has been set for men in India, the need of comparable laws for the protection of men in India should be the foremost objective of the law. To put the light on the subject-matter, the root cause of discrimination is the structure of statutory provisions in India, which are the leading cause of gender inequality. This paper aims to eradicate the sub conscious bias against men in our society due to social stigma and reflects the dire need to re-think the Constitution, Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), POCSO, Maintenance Laws, etc., from gender neutral point of view. "An Analysis of Men's Rights" explores complex issues like discrimination, marginalization and gender-based violence in India by identifying the root causes and suggesting a way out to curb such issues. Conversion of "Gender biased" laws into "Gender neutral" laws in the society to create a safe and protective environment for all along with judicial backings, is the need of the hour. Many developed and developing nations have been introducing gender neutral provisions therefore the required approach is not to turn a blind eye to prevalent 'gender disparity' but to focus on 'gender neutrality' which is the foremost step that needs to be taken by the law makers. The objective behind this paper is the construction of laws in such a way that provide equal opportunities along with equal responsibilities to all, to build a society which is of all and for all. The goal is to establish such legislation which protects as well as obligate everyone, irrespective of their traditional gender roles in society, for the offences committed against them and offences committed by them. As per the "Theory of Justice" also known as the "Veil of Ignorance" introduced by the American philosopher John Rawls, Justice requires removal of

[43] *Gary Green, 'Famous Quotes in the Law' Law Offices of Gary Green (22 March 1995) accessed 13 June 2022*

personal preferences and being concern of all individuals in the society while ensuring that the laws, policies, legislations introduced are beneficial for the entire society irrespective of their gender, status, caste, etc. The Veil of Ignorance suggests that the Just and Fair way of making policies and introducing Laws by way of putting every person in the same position and formation of rules in such a way that encourages fairness, equal opportunities and an environment of cooperation amongst each other. In the context of protecting the rights of men and women, the laws should be introduced for the benefit of the whole society irrespective of their gender roles and promotes moral concern and empathy towards individuals.

Interpretation of laws in such a manner that it is advantageous to both individuals and individual writ large is necessary in India. This research paper demonstrates evidence for the injustice happening with men through Supreme Court findings and Judicial Precedents. The Limitation in the "Analysis of Men's Rights" is that it requires further inquiry into the domain of securing equal rights for men in society with the assistance of primary and secondary resources. The unveiled part of this research paper includes societal stereotypes and cultural attitudes towards men in the society and along with alterations in law, for the promotion of men's rights, it requires further research on the social and cultural aspects. In final thoughts, the conclusions made in this paper aims to create more discussions on men's rights in India and underscores the requirement for gender neutral laws which provides protection to all irrespective of their gender roles in the society.