

An Analysis of Gender Disparities in Indian Legal framework: Examining Potential Biases Against Men

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ABSTRACT

This Research paper provides a critical analysis of the enduring gender Disparities within India's legal System highlighting their contradiction to constitutional equality. This analysis explores the socio-legal dimensions of these inequalities, Examining how deeply rooted patriarchal structures and cultural norms impact the inconsistent application and effectiveness of laws. Despite India's constitutional foundation for gender equality, systemic issues frequently obstruct the practical implementation of these principles.

KEYWORDS

Gender Disparities; Indian Legal framework; sexual Harrasment; National Crime Records Bureau; Gender Neutral laws; Legal Rights; Inequality.

INTRODUCTION

A long -standing patriarchal structures has historically perpetuated gender inequality within Indian society, disadvantaging women across generations that's why India has enacted laws addressing dowry and domestic violence, intended to protect women, but these laws have also raised concerns about equitable treatment for men and a critics argue this comes at the expense of male fairness. Although the Indian Constitution enshrines equality, disproportionality becomes evident when analysing population data and the application of criminal laws because the principle of equality contrasts with the observable biases within the criminal justice system and population data. It is perceived that the legal system provides stronger protection for women from male perpetrators, than it does for men who are victims of female perpetrators. There is a noticeable difference in how the legal system addresses crimes, depending on whether women are victims or perpetrators. The protection of men from crimes committed by women appears less robust within the legal framework that's why the Concerns exist regarding the potential for unequal application of the laws

OBJECTIVES

This paper aims to contribute to a more sophisticated understanding of the interplay of gender within the Indian legal framework. The goal of this research is to promote a more equitable and just legal framework that serves all genders fairly.

HYPOTHESIS

The current discourse and focus on gender equality within the Indian legal system predominantly address Disparities faced by women, potentially leading to an under- examination and perpetuation of biases against men.

RESEARCH METHODOLOGY

This is a doctrinal research and all data collected is secondary.

A legal Perspective: Potential Biases Against Men in Indian Law-

This research identifies gender-biased laws impacting men -

- (A) Law concerning marriage based on false promises: The problem of false promise of marriage persists, demonstrating the continued presence of gender bias in Indian Legal provisions, including the recent Bharatiya Nyaya Sanhita, 2023. Indian law often views women as victims: Section 69 of the Bharatiya Nyaya Sanhita, 2023, concerning sexual intercourse obtained through false promises of employment, promotion, or marriage by concealing identify, closely resembles the provisions of IPC Section 375 read with Section 90. The treats a woman's consent as invalid when sexual relations occurs under man's false promise of marriage. Men are left with out legal remedy when they are victims of deceitful promises of marriage, as the law doesn't recognise this possibility.
- (B) Gender Specific Interpretation of Consent: The BNS, 2023, prioritizes the protection of women by emphasizing that consent gained through deceit is invalid , reflecting their perceived vulnerability. Conversely, a man's consent, even if obtained through similar deception, is not afforded the same legal consideration.
- (C) Sexual Harrasment at the workplace: Indian sexual Harrasment legislation is primarily designed with women in mind, which could leave men vulnerable. This assumption leaves male victims and individuals from non binary or LGBTQ+ communities without sufficient legal protection when facing harrasment.
- (D) Rape& Sexual Assault: According to section 63 of the BNS, 2023, rape is limited to acts committed by men against women. This law does not acknowledge male rape victims, leaving section 377 (unnatural offence) as the only recourse for male victims of male sexual assault. The criminal laws have abolished this section (377) entirely. Nevertheless, even when a man is sexually assaulted by another man, it is still not legally classified as 'rape'. Beyond the issue of rape, this law failsto differentiate between consensual and non consensual sex between adult's men, and it offers no legal path for male victims of female perpetrators.

- (E) Issues with the existing Rape Law: * While Section 68 of the BNS, 2023, addresses sexual exploitation of women by men in power, the law does not penalize women seek favours from men. * In Instances of women false accusations of rape and sexual Harrasment, Men lack legal safeguards against false and malicious accusations from women acting malicious intent.
- (F) Indian legislation addressing cruelty: By retaining the gender -specific nature of the law, section 85 of the BNS, 2023, leaves men without legal avenues to address the cruelty faced by their wives or in -laws. Indeed, some men are falsely accused of using marital disputes as leverage, placing a significant legal burden upon them.
- (G) Law on Maintenance in India: Based on presumption that men are the primary earners, Section 144 of BNS, 2023, obligates them to provide financial maintenance, irrespective of wives' financial standing".
- (H) The Issue of Gender bias in child custody law in India: The legal framework for child custody tends to prioritise mothers, frequently resulting in fathers facing obstacles in obtaining custody or even regular visitation. This bias , based on the belief that mothers are naturally better caregivers, frequently puts fathers at disadvantage in family law courts.

The heart- wrenching case of Atul Subha exemplifies the devastating impact of these ingrained biases. It highlights how male victims of abuse and Harrasment, despite their societal and familial contributions, are often overlooked by the law.

Data and Empirical Analysis: Potential Biases Against Men

Recent tragic incident, such as the Suicides of Bengaluru - based techie Atul Subhash and a police Constable, highlight a concerning reality. Surprisingly, NCRB data from 2021 reveals that out of 1, 64,033 Suicides in India that year , over 81,000 were married men, significantly higher than the over 28,000 married women. This indicates that men often greater mental stress, particularly in family and marriage. Compared to women, men's legal right in these circumstances appears to be substantially curtailed. The findings of a 2022 study by the National Commission for Women indicate that 1.4% of men in the country encounter sexual Harrasment. The year 2022 also saw 3,000 reported cases of sexual assault on men, an increase from the 2,500 such cases documented in 2021. As per a report of 2020 by the NCRB, Police investigation found 5,520 of the 111,549 cases registered under Section 498A of the Indian Penal Code, 1860, to be false. The Save family Foundation conducted a study indicating that more than 82,000 married men in India died by suicide between 2003 and 2016 as a result of domestic violence, including physical, emotional, and verbal abuse, financial pressure, and sexual

Harrasment. Sadly, such cases frequently went unnoticed by the media, social media, and the police.

SUGGESTIONS

To mitigate gender Disparities faced by men , the following suggestions are proposed -

* To remain effective, the Indian legal framework must evolve in response to changing dynamics and; * There is a need for the active promotion of gender -neutral laws, coupled with the systematic review and Amendment of existing laws; * Working towards the fair and equitable application of the law as it current stands.; * Efforts should be made to encourage the judiciary to base their decisions on individual circumstances rather than on preconceived gender stereotypes.; * Judges and legal professionals should participate in regular training and workshops aimed at increasing their understanding of gender biases and promoting unbiased decisions making processes; * The provisions of equal access to legal aid and support services for men must be guaranteed; * launching awareness initiatives to educate men on their legal rights and options; * Effort in India should focus on public education concerning gender equality and fostering open discussions about the difficulties experience by men and women here.

CONCLUSION

Although substantial advancements have been achieved in the journey towards gender equality both within Indianand internationally, it is imperative that the narrative surrounding gender inequality is expanded to include the experiences of men. To facilitate the recognition of men's voices and the acknowledgement of their struggles, the legal framework must adapt to the changing dynamics of modern relationships. It issolutely by addressing gender issues comprehensively and inclusively that we can aspire to creat a genuinely equitable society for everyone.

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