

MISUSE OF WOMEN CENTRIC LAWS IN INDIA

Akhil Kumar*

ABSTRACT

Women-centric laws in India were introduced with the noble intention of empowering and protecting women against various forms of discrimination, violence, and injustice. However, over the years, concerns have been raised about the potential misuse of these laws. This abstract sheds light on the complex social reality surrounding the misuse of women-centric laws in India, analyzing the underlying factors, impact, and potential solutions. The misuse of women-centric laws is a multifaceted issue with no simple explanations. While it is important to acknowledge that genuine cases of gender-based violence and discrimination are prevalent, there have been instances where these laws have been exploited for personal gains, revenge, or to settle scores in family disputes. The dynamics of power, socio-cultural influences, and the lack of awareness and sensitivity towards gender issues contribute to this problem. The consequences of the misuse of women-centric laws are far-reaching. Innocent individuals, including men and their families, have been falsely accused and subjected to legal harassment, social stigma, and financial burdens. Moreover, the trust and credibility of these laws have been undermined, leading to skepticism and reduced faith in the justice system. Such misuse can inadvertently perpetuate gender bias and hamper the progress of gender equality in society.

Keywords: Discrimination, Exploited, Skepticism, Legal Harassment, Injustice, Gender Equality.

INTRODUCTION

India's misuse of laws that focus on women is a contentious issue. There have been occasions where these laws have been abused, despite the fact that it is vital to address the real problems that women confront and give them legal protections. The importance of these laws in defending women's rights and safeguarding their safety should not be diminished by their potential for abuse, it is crucial to remember.

*BA LLB, FOURTH YEAR, UNIVERSITY OF ALLAHABAD.

INSTANCES OF ABUSE OF WOMEN-CENTRIC LAWS

Here are several instances and examples that demonstrate the abuse of women-centric laws in India:

False Dowry Cases: False dowry cases, which are brought under Section 498A of the Indian Penal Code, are among the most frequently cited instances of misuse. This clause intends to shield married women from abuse and dowry-related harassment. To bother their spouses and in-laws or to extract money from them, women and their families have on occasion made-up cases. According to data from the National Crime Records Bureau (NCRB), many Section 498A dowry charges are fabricated or without merit.

Misuse of Domestic Violence Act: Another significant piece of law to fight domestic abuse is the Protection of Women from Domestic Abuse Act (PWDVA). However, there have been instances where women have abused the legal system to falsely accuse their partners or in-laws. Some examples include making fictitious accusations of physical or psychological abuse, trying to make money, or getting a leg up in divorce and custody disputes.

False Rape Allegations: While it is important to help and defend sexual assault victims, there have also been cases of false rape accusations. A person's life, reputation, and profession can all be destroyed by false allegations. False accusations have occasionally been made as a result of personal grudges, extortion schemes, or to obtain an advantage in court trials.

Misuse of Anti-Dowry Laws: Other dowry law measures, such as the Dowry Prohibition Act and Section 304B of the Indian Penal Code (dowry death), have also been utilised improperly in the past, in addition to Section 498A. To settle personal scores or gain an edge in marital conflicts, false accusations of dowry demands, harassment, or dowry deaths have been made.

Misuse of Sexual Harassment Laws: A safe workplace for women is what the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act aims to achieve. However, there have been instances where women have abused this rule by accusing superiors or coworkers on the basis of false information, harming their reputations and jobs.

LANDMARK CASES

It's important to note that while instances of misuse do occur, they are relatively rare compared to the overall purpose and effectiveness of these laws in protecting women's rights. Here are a few cases that have gained attention:

State of Haryana v. Bhajan Lal(1992)¹: This case is often cited in discussions on the misuse of Section 498A of the Indian Penal Code (IPC), which deals with cruelty against married women. The Supreme Court of India laid down guidelines to prevent the misuse of this provision and emphasized the need for genuine cases to be distinguished from false or exaggerated ones.

Social Action Forum for Manav Adhikar v. Union of India (2018)²: In this case, the Supreme Court acknowledged the misuse of Section 498A and observed that it was being used as a weapon for harassment in many instances. The court directed the police to follow the guidelines issued in the aforementioned *Bhajan Lal* case to prevent arbitrary arrests.

Arnesh Kumar v. State of Bihar (2014)³: This case pertained to the misuse of Section 498A and highlighted the issue of arrest and detention of accused individuals without proper investigation or evidence. The Supreme Court ruled that arrests in such cases should only be made after a thorough investigation and with proper justification.

Independent Thought v. Union of India (2017)⁴: This case focused on the misuse of the Protection of Children from Sexual Offences (POCSO) Act. The Supreme Court held that consensual sexual relationships between minors, where both parties were close in age, should not be treated as criminal offenses under the act.

It's important to understand that these cases highlight instances of misuse rather than undermining the necessity of women-centric laws in India. The primary objective of these laws is to protect women from violence, harassment, and discrimination, and they have played a crucial role in promoting gender equality and women's empowerment.

¹ 1992 AIR 604, 1990 SCR Supl. (3) 259

² 2018 WRIT PETITION (CIVIL) NO.73 OF 2015

³ 2014 CRIMINAL APPEAL NO. 1277 OF 2014

⁴ 2017 WRIT PETITION (CIVIL) NO. 382 OF 2013

FORCED SEXUAL ACTIVITY

When forcible sexual assault is spoken up, the first image that comes to mind is one in which women are the assaulted and males are the perpetrators. This is the core issue. Women frequently abuse Section 375 of the IPC, which was created to aid women in obtaining justice if they are coerced into having sex. There is no defence offered to a man against such coerced sex. Even if women are more likely than men to experience such an offence, justice should still be served to the victim by punishing the offender if even one person is harmed.

One in 4 women (26.8% or 33.5 million) in the United States reported completed or attempted rape victimization at some point in her lifetime. Two percent (2.3% or about 2.9 million) reported rape victimization in the 12 months before the survey. Men about 1 in 26 men (3.8% or 4.5 million) in the United States reported completed or attempted rape victimization at some point in their lifetime.⁵ Due to the shame associated with reporting rape instances, the rates may be underestimated. According to the US Department of Justice, 99% of individuals found guilty of rape are men and 1% are women.⁶ However, we are unable to obtain data for India because rape against men is not legal there.

A 2007 survey by the Indian government found that boys reported 57.3% of reported incidences of sexual abuse against children, including rape or sodomy, while girls reported 42.7% of reported cases. Around 18% of adult Indian men reported having been coerced into sex, according to the Delhi-based Centre for Civil Society. Female offenders made up 16% of those cases, while male offenders made up 2%.⁷

MAINTENANCE OF THE WIFE BY THE HUSBAND

According to Section 125 of the Code of Criminal Procedure, 1973, a person is required to support his or her spouse, children, and parents who are unable to support themselves. Even if the wife is employed, her salary is insufficient to support her, so the husband must meet her requirements.⁸

⁵ Centres for Disease Control and Prevention, <https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvsreportonsexualviolence.pdf> (last visited June 17, 2023)

⁶ Greenfeld, Lawrence A. (February 1997). "Sex Offenses and Offenders" (PDF). Bureau of Justice Statistics. U.S. Department of Justice. p. 3. NCJ-163392. Archived (PDF) from the original on 1 July 2015. Retrieved 21 June 2016.

⁷ Legal Service India <https://www.legalserviceindia.com/legal/article-4685-sexual-violence-against-men-in-india.html> (last visited June 17, 2023)

⁸ Code of Criminal Procedure, 1973, § 125, Acts of Parliament, 1973 (India)

According to Section 37 of the Special Marriage Act, the husband is required to support his wife out of his property after a divorce up until a change in her circumstances, such as when she gets married again or becomes immoral.⁹

According to Section 18 of the Hindu Adoption and Maintenance Act, a Hindu wife has the right to lifetime support from her husband.¹⁰

In accordance with Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986, a divorced Muslim woman has a right to support from her ex-husband throughout the iddat period.¹¹

According to Section 37 of the Divorce Act of 1869, if a decree of dissolution or judicial separation is issued, the husband is required to provide his wife's support for the remainder of her life.¹²

All of the laws previously mentioned call for a wife to be supported by her husband, but no mention is made of a husband being supported by his wife. There may be instances where the husband requires maintenance as well, however, the aforementioned regulations do not specify this requirement. In terms of divorce and maintenance, a woman is supported under family law. According to Section 125 of the Criminal Procedure Code, a recovery warrant may be filed against the husband if he is unable to support his wife. Even when it comes to child custody, it is ideal if the wife is given custody, at least for children under the age of five. A single male is not permitted to adopt a female child in adoption cases either. All of these laws contain flaws that have a significant negative impact on men.

HOW ARE MEN IN A WORSE POSITION THAN WOMEN?

Males are disadvantageously impacted by a number of laws. They are frequently caught up in fictitious cases. Women often utilize the many laws designed to uphold their rights to harass males and occasionally to stroke their egos. For them, the law is exceedingly tight, and they frequently experience atrocities at the hands of the police. Additionally, the majority of offences against women are cognizable and not subject to bail, making it harder for innocent males to escape punishment.

⁹ Special Marriage Act, 1954, § 37, Acts of Parliament, 1954 (India)

¹⁰ Hindu Adoption and Maintenance Act, 1956, § 18, Act No. 78 of 1956

¹¹ Muslim Women (Protection of Rights on Divorce) Act, 1986, § 3, Act No. 25 of 1986

¹² Divorce Act, 1869, § 37, Act No. 4 of 1869

There are many laws that defend women's rights, but none that champion the interests of men in society. The Domestic Violence Act and Section 498-A of the IPC govern the majority of divorce cases and cruelty charges, respectively. These lawsuits are frequently only brought to obtain money from the partners. And just one of these untrue accusations could destroy his reputation in society as well as his profession. There have also been instances of women getting remarried just for their wealthy husbands' property and support.

There are regulations in existence to safeguard women from workplace sexual harassment, but no similar rules exist to protect men. What is believed is that men may only be sexual harassment and eve-teasing perpetrators, not victims and that sexual harassment and eve-teasing only affect women. This is untrue.

LAWS THAT FAVOR WOMEN AND HOW SOCIETY VIEWS THEM

The majority of individuals in our society have always been in favor of women's empowerment. Women currently hold the upper hand in women-centric laws. Things have changed in society from the period when women were marginalized and seen to be weak to the present when women are respected and not all that weak. However, the culture continues to view incidents involving laws that favor women in a way that declares men to be the culprits rather than attempting to grasp the full context.

Everyone expresses sorrow for the victim and worries about her future when a girl is raped. This is perfectly OK. Naturally, if people are living together, they must at least do this much. But what about a man who was accused of rape but later found to be innocent? Does society still view him the same way that it did before he became embroiled in a fake case? No, is the response. Even if they are shown to be innocent, the members of society who had already labelled them as the offender and who should not be allowed to live with their heads held high still view them with contempt. And since more people are using social media platforms, which make it simple to damage someone's reputation, the situation has gotten worse. This is how society interprets laws that favour women, believing that women are always the victims and men are always the offenders, regardless of the real root of the problem.

JUDGMENTS

Dr. N.G. Dastane v S Dastane¹³ - The Supreme Court ruled in this case that, notwithstanding the presumption that the stronger person physically abuses the weaker person, in this case, a husband towards his wife. However, both men and women are capable of treating their relationships cruelly in their minds.

Rajesh Sharma & Others v State of Bihar¹⁴ - In this instance, the court established specific guidelines to stop the abuse of IPC Section 498-A. The court instructed the District Legal Services Authority to establish a Family Welfare Committee in each district and to conduct a month-long investigation into all domestic abuse incidents reported in accordance with Section 498-A of the IPC before making any arrests. The Committee would be made up of retired people, social workers, and paralegal volunteers who would receive introductory training before starting the assignment.

REMEDIES SUGGESTED

The laws that are rigid and geared towards women should be thoroughly scrutinized to close any gaps that may be there. Making laws that are centered on women is beneficial because women need to be protected, but it's important to remember that laws that help women victims shouldn't endanger the lives of innocent males. The rights of both men and women should be taken into consideration when crafting the legislation. Even though dowry rules are vigorously enforced against the groom's family, there are still instances where it occurs. It exists because under the Dowry Prohibition Act, giving dowry by the bride's family is likewise illegal, and only those who take dowry are punished. Most often, those who seek dowry are also those who offer it. Consequently, it is essential that the laws be correctly applied.

CONCLUSION

The occurrence of misuse should not diminish the significance of laws that are centered on women, it is vital to emphasize that these instances of misuse represent a minority of situations. The emphasis should be on establishing a just and equitable legal system that

¹³ AIR 1975 SC 1534, (1975) 2 SCC 326, 1975 3 SCR 967

¹⁴ 2017 SCC 821

protects both women's and men's rights while properly dealing with instances of actual abuse and harassment.

Women's rights legislation is created to safeguard them against societal abuses. When they were put into place, there was a need, and there still is. However, it is equally crucial to ensure that no innocent person is hurt by such rules in any kind of battle. Additionally, it is a difficult task for judges to ensure that their delivery of judgment is unaffected by society's viewpoint that women are always the victims of laws that are centered on them.

