

## A CRITICAL ANALYSIS OF MALE RIGHTS IN INDIA

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Article 14 of the Constitution of India reads as under: “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”<sup>1</sup> this concludes that every person whether a man, a woman, a transgender or a physically challenged person are to be treated as equals without any biasness but it fails to safeguard the rights of men in many instances.

While Article 14 emphasizes “equality,” and Article 21 underscores the “protection of life and liberty for citizens,” still you will find violations of the rights of men as human beings in most instances, which is because of the emphasis of Article 15 on the protection of women without equal emphasis on the protection of men.<sup>2</sup>

### INTRODUCTION

India predominantly follows patriarchal and patrilineal customs, that give a man more importance, higher status, and decision-making power to men than women in households but in matters of enjoying rights, men are always being exploited. There are several circumstances where we don't have any gender-neutral laws and the rights of women are prioritized over the rights of men. This leads to a rise in the number of false and fabricated allegations against men.

It is irrational to think that men are always the offenders and women are always the victims. Recently, many cases have highlighted how men's rights are exploited. Whether in the home, workplace or public area, men are being harassed pretty badly and yet no strict action was taken against the offender as no law prioritizes or protects the rights of a man. However, it's noteworthy that in cases of gender-related violence under the Indian Penal Code or the Bhartiya Nyaya Sanhita, men are seen as the reason for the crime, as the primary perpetrators of the crime.<sup>3</sup>

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<sup>1</sup> Constitution of India

<sup>2</sup> Men's Rights in India (menhelpline.org) <<https://menhelpline.org/mens-rights-in-india-explained/#:~:text=Constitutional%20Guarantees%3A&text=Article%2014%20mandates%20equality%20before,primary%20perpetrators%20of%20the%20crime>> accessed June 19, 2024

<sup>3</sup> *Ibid*

## VARIOUS ASPECTS OF VIOLATION OF THE RIGHTS OF MEN

**Domestic Violence:** It is often challenging for people to accept that men can also suffer from domestic violence, just as women do. In the present study, 52.4% of men experienced gender-based violence. Out of 1000, males 51.5% experienced violence at the hands of their wives/intimate partner at least once in their lifetime and 10.5% in the last 12 months. The most common spousal violence was emotional (51.6%) followed by physical violence (6%).<sup>4</sup> Due to the lack of legislation for violence against men, most of the cases don't get registered.

**Sexual harassment:** In India, only a woman can be legally considered a victim of sexual violence and at the same time, only a man can be legally considered to be the perpetrator. According to a National Commission for Women research from 2022, 1.4% of males in India had experienced sexual harassment, and 3,000 incidences of sexual assault on men were documented in India in 2022. According to a poll conducted in 2023 by the Centre for Civil Society, nearly 18% of Indian adult men surveyed reported being pressured or forced to participate in marital relations.<sup>5</sup> In *Navtej Singh Johar v. Union of India*<sup>6</sup>, the Hon'ble Supreme Court held Section 377 of the Indian Penal Code, 1860 as unconstitutional, the only law that criminalized sexual acts against a man. The *Bhartiya Nyaya Sanhita (BNS) 2023*, the proposed replacement for the Indian Penal Code (IPC), does not contain IPC Section 377 (or an equivalent section), which was read down by the Supreme Court in 2018.<sup>7</sup> This makes India a country that doesn't recognise any rights of men who experience sexual assault.

**Misuse of Section 498a IPC by Women:** Section 498a<sup>8</sup> states "Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. The fact that Section 498A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shields by disgruntled

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<sup>4</sup> Jagbir Singh Malik and Anuradha Nadda, "A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India" <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/>> accessed June 19, 2024

<sup>5</sup> Mohd Varis Mansoori, "Sexual Harassment of Men: A Hidden Epidemic" <<https://www.linkedin.com/pulse/sexual-harassment-men-hidden-epidemic-mohd-varis-mansoori-74qlf>> accessed June 19, 2024

<sup>6</sup> 2018 INSC 790

<sup>7</sup> Khadija Khan, "Section 377 is gone, but some fear the proposed *Bhartiya Nyaya Sanhita* does not protect men against rape. This is why", *The Indian Express* (13 August 2023)

<<https://indianexpress.com/article/explained/explained-law/section-377-bharatiya-nyaya-sanhita-men-rape-8890847/>> accessed June 19, 2024

<sup>8</sup> Indian Penal Code, 1860 s 498a

wives.<sup>9</sup> As per the report of NCRB (National Crime Record Bureau), 2020. The total number of cases registered under section 498 A were 1,11,549 out of these 5,520 were considered false by police and 16,151 cases were closed due to a mistake of false fact or law, Insufficient Evidence, Mistake or Civil dispute.<sup>10</sup> The above data makes 498a one of the most misused Sections of IPC, where men suffer extremely.

**False accusations:** The stereotype about men being the abusers and women being the victims prevails everywhere which gave rise to a number of false accusations against men. According to National Crime Record Bureau, (NCRB), about 74% of rape cases under section 376 of the Indian Penal Code turn out to be fake.<sup>11</sup> According to the Data given by the National Crime Records Bureau Delhi 30,000 molestation cases were filed during the year 2013-2014 and 75% of cases were false. With the increase in no. of false cases the no. of men committing suicide due to molestation cases is also increasing, the report shows more than 3500 men commit suicide in India every year due to molestation cases.<sup>12</sup>

**Custodial Rights:** Men also face biasness while getting custody of their child. In most of the cases, they are not even allowed to meet their child which leads to problems like distraction, unhealthy habits and even depression. In most of the cases, the divorced wife completely stops the visitation rights of the father. Also, the father is forced to pay a heavy amount of maintenance to the wife and the child which again highlights the biasness of the law based on gender. As in the case of famous Indian cricketer, Mr Shikhar Dhawan, even though he was granted mandatory visitation rights to meet his son, yet he revealed that he hasn't been in contact with his son for over a year as he has been blocked from every platform.

## HOW TO SAFEGUARD RIGHTS OF MEN?

**Implication of gender-neutral laws:** In the present scenario, where not only women but men are also suffering from domestic violence, sexual assaults false accusations there is an urgent need for the ramifications of gender-neutral laws where the rights of men are given equal

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<sup>9</sup> Laxmi Khawas, 'Rampant Misuse of Section 498a of IPC' <<https://www.iilsindia.com/blogs/rampant-misuse-of-section-498a-of-ipc-and-sc/>> accessed June 19, 2024

<sup>10</sup> Mr Anmol Kumar Ghai, 'Misuse of Section 498a in Today's Era and It's Protection' <<https://legalserviceindia.com/legal/article-8141-misuse-of-section-498a-in-today-s-era-and-its-protection.html>> accessed June 22, 2024

<sup>11</sup> Shehryar Edibam, 'False Rape Allegations against Men in India' <<https://www.jlsrjournal.in/false-rape-allegations-against-men-in-india-by-shehryar-edibam/>> accessed June 22, 2024

<sup>12</sup> Sahodar, 'Why False Molestation cases is becoming a big problem in India' <<https://sahodar.in/why-false-molestation-cases-is-becoming-a-big-problem-in-india/>> accessed June 22,2024

validation and protection by law as of women. Gender-neutral legislation will not only make the judicial procedure smoother and faster but will also give a wide overview of numerous aspects of men's and women's rights. It will provide a healthy environment for both women and men to acknowledge their rights and register complaints against violation of such rights.

**Prioritizing men's rights:** There are many cases where men suffer humiliation, disrespect, inferiority complex due to the societal norms that always tend to declare men as guilty even before the trials. Also, the news, social media and the internet easily believe in any false allegations against a man and start abusing him without anticipating the whole scenario. This gives rise to the importance of prioritizing the rights of men.

**Investigation before taking action:** In several instances, a man gets arrested easily by the mere statement of a woman without checking the triviality of the facts which gives rise to many false cases against men just to knock down the self-respect and image of a man. Many men also lose their jobs based on fallacious accusations by their co-workers at their workplace without any primary investigation. Hence, a quick inspection of the facts of the cases will lower the number of fake cases and will lead to an impartial environment for men as well.

**Establishment of forums for men:** Men's rights get equally violated as women's. A Forum similar to the National Commission of Women should be established for men too. The Supreme Court refused to entertain a Public Interest Litigation filed seeking guidelines to deal with increasing suicide rates among married men subjected to domestic violence and the setting up of a 'National Commission for Men' for dealing with such grievances.<sup>13</sup>

**Creating awareness:** Around 33.2% of men ended their lives because of family problems and 4.8% due to marriage-related issues in the year 2021.<sup>14</sup> The number is rising day by day and still, many people fail to acknowledge the plight of a man due to limited knowledge about men's rights. Hence, there is an urgent need to create awareness among the masses to reduce the exploitation of men's rights.

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<sup>13</sup> SC refuses to entertain PIL for setting up of 'National Commission for Men, The Hindu (July 03, 2023) <<https://www.thehindu.com/news/national/sc-refuses-to-entertain-pil-for-setting-up-of-national-commission-for-men/article67036752.ece>> accessed June 22, 2024

<sup>14</sup> Press Trust of India, 'Suicide by married men: SC refuses to entertain PIL for setting up if 'National Commission for Men', The Economic Times <<https://m.economictimes.com/news/india/suicide-by-married-men-sc-refuses-to-entertain-pil-for-setting-up-of-national-commission-for-men/articleshow/101454392.cms>> accessed June 22, 2024

## JUDGEMENTS ACKNOWLEDGING MEN RIGHTS

**Arnesh Kumar v State of Bihar & Anr:**<sup>15</sup> It is a landmark judgment where the Supreme Court gave directions to police officers regarding arrest according to Section 41, 41A and other essentials of the Code of Criminal Procedure, 1973 (CrPC). The court said that these directions shall not only apply to the case under Section 498-A Indian Penal Code, 1860 or Section 4 of the Dowry Prohibition Act, 1961 but also such cases where the offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine. The court while pronouncing the judgement endeavoured to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorize detention casually and mechanically.

**Gagandeep Singh v Bhumika, (2024):**<sup>16</sup> In this case, the Delhi High Court ruled in favour of the husband, Gagandeep Singh. The court found that the wife, Bhumika, had filed a false Domestic Violence case against Gagandeep and his family.

**Rajnesh V Neha & Anr:**<sup>17</sup> In this case, the Supreme Court of India issued guidelines to be implemented in cases related to maintenance throughout India. The court held that the husband is not required to pay maintenance in each of the proceedings/cases filed by the wife under a different maintenance family.

**Naveen Kohli v Neelu Kohli:**<sup>18</sup> The family court found that the wife had filed a number of cases against her husband and had got the police to harass him. She had released an advertisement in the newspapers declaring that her husband was an employee in the factory, when in fact he was the proprietor. The court concluded that the husband was being mentally, physically and financially harassed by his wife. It held that both husband and wife had allegations of character assassination against them but had failed to prove these allegations. The court observed that although efforts had been made towards an amicable settlement there was no cordiality left between the parties and, therefore, no possibility of “reconnecting the chain of marital life between the parties”. The family court dissolved the marriage, directing the husband to deposit Rs25lakh towards permanent maintenance of the wife.

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<sup>15</sup> (2014) 8 SCC 273

<sup>16</sup> MAT. APP. (F.C.)- 29/2024

<sup>17</sup> AIR 2021 SC 569

<sup>18</sup> AIR 2006 SC 1675

## CONCLUSION

Men's problems and interests have been neglected and marginalized primarily because of feminism's political and cultural domination. Men are often subjected to false accusations of harassment, abuse, and demanding dowry, rape, lack of choice when it comes to custody fights. These are only 40% of the problem but some people cannot even name one of these. These are real issues that need our attention and care. These issues need to be advocated in a way that our society becomes truly equal. Men's rights deserve to be talked about on various platforms and should receive equal recognition and importance as women. There is a serious requirement for stricter laws and legislation while addressing the rights of men. Both the government and the people of India need to come forward to acknowledge and protect the rights of men.



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