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## ABUSE OF LEGISLATION BY WOMEN IN INDIA: AN ANALYSIS

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### ABSTRACT

In order to address the subject of law breaking properly requires serious investigation and depth analysis. In the context of gender dynamics, the most prevalent narrative tends to center on women victimization, but the prospect of abuse being committed by her usually rejected or neglected because emphasis of narrative is on the victimization of women. Emerging of abuse in various ways and can be committed by anyone regardless of their gender. Through throw light on the abuse of laws by her the objective is to bring attention to the need of adopting a holistic strategy which takes into all intricacies and difficulties associated with combating abuse, irrespective of gender of abusive individual. It is inferred from the study that it would serve as a catalyst for important dialogues, policy changes and a more nuanced understanding of norms surrounding misuse of laws by women in India. Only through like these conversations and acts based on what we learn from them that we will be able work towards creating a society which is more equitable and fairer for every individual.

**Key Words:** Gender inequality, Women laws, Victim protective enactments, Legal reforms, Support Services, Judicial Activism.

### I. Introduction

For being born as a man is seen as a transgression in Indian context. Under law marrying an Indian girl is considered as a grave offence. The present laws intended to safeguard woman is responsible for the said gender based discrimination against males. As the issue pertain to spirit or ego? For inadequate treatment of women in India is usually criticized but has there been any consideration given to instances when women may harass men? The recent ruling pronounced by Apex court that mens rights activists as victims of domestic abuse. Oftenly, it has been observed that offence of rape is overused in India. Almost 50% of reported cases of this offence are found to be filed with malafide and fraudulent intent and arisen from impulsive reactions to minor disputes<sup>501</sup>. Many legislations enacted to safe

the women in workspaces, workplaces and even inside confines of their own homes. Resultantly, in addition to existing legal provisions women possesses a significant advantage over males due to several privileges given to them includes reserved seats in buses, dedicated ticket counters, special lady's bogies in train. This all proves highlight gender based discrimination within society. Men are also subject

to sexual assault and domestic violence, but are not given attention and media coverage. The gender equality in legal assertion usually contradicts prevailing sociological realities and cultural norms inside the society<sup>502</sup>. Use of emblem 'Mother India' served to exalt fundamental tenets, sense of noted identity and rich cultural legacy of India.

<sup>501</sup>Senthil Negha and Jayanti Vajiram, "The misuse of law by women in India- Constitutionality of Gender Bias" available at: [arXiv.https://doi.org/10.48550/arXiv.2307.14651](https://doi.org/10.48550/arXiv.2307.14651)(last visited on July 9, 2025).

<sup>502</sup>Tazeen Ahmed and Shabbir Ahmed, "Law, morality and society: The legal stance of Vigilantism and moral policing in the context of India" 5 *International Journal of Law, Management and Humanities* 1968-1985(2022).



## II. Historical Perspective

In the whole of vedic era, females and males were treated with same level of respect and had equal freedoms and rights. This vedic era some time known as the “age of women” was really a time of high male brilliance and autonomy, despite its reputations as the “age of women”. Women are referred to be a husband’s “best friend” in Aitarcy Upanishad<sup>503</sup>. This all fall within wife’s purview. In Mahabharata, it is written that lady was responsible for providing dharma, riches and happiness. Man is forbidden to participate in religious ceremonies until and unless he was accompanied by his wife<sup>504</sup>.

Now, she enjoys a status on same forward thinking western ideas of liberty, equality and partnership as their male counter parts can. This can be identified by various distinguishing characteristics including freedom to choose one’s own life mate, absence of purdah system, polygamy was unusual. Upanayana is also as the right of the thread was performed by the participants of both sexes<sup>505</sup>. In Hindu Sita is revered as a divine of figure due to that she is honored in this capacity. Draupadi not only symbolize courage and liberty but also proves independence and reliance on oneself. Every member of the society is duty bound to follow these laws, not only the women and families they supported. Their time period both Manu Samriti and the Yagnavalkya Samriti considered to be the most influential legal scriptures<sup>506</sup>. Certain challenges also faced by her during ancient time i.e “sati system”, marrying of children at a young stage generally between 8 to 10 of young girls. Not to remarry after death of her husband along with prevented it from participation in religious programmes and

festives. She also observed purdah system during this period<sup>507</sup>.

## III. Constitutional Provisions

The framers of Indian Constitution make certain provisions to remove discrimination between two sex’s i.e male and female and tries to uphold the dignity of women<sup>508</sup>. Article 14<sup>509</sup> “Equality before law and Equal Protection of law” incorporates the idea of legal equality and in this way women are protected by laws that ban discrimination in a comprehensive way including discrimination from male co-workers. This law protects women from all forms of discrimination.

Article 15 (1)<sup>510</sup> clearly prevents discrimination against women on the ground of sex, caste etc. along with it Article 15(3) makes provision for legislation that benefit women to protect and raise them from such discrimination.

Article 16<sup>511</sup> talks about equality treatment regarding public employment and nominations to public office and resultantly make sure that everyone has a fair chance to succeed. This Article confers power on the state authorities to take affirmative action on behalf of women. 73<sup>rd</sup> and 74<sup>th</sup><sup>512</sup> amendments in Constitution of India have women reserved seats in both rural and urban local bodies.

Article 51A<sup>513</sup> ensures rights of women by making it mandatory for all the residents of India to abandon or renounce derogatory practices which diminish women’s worth<sup>514</sup>.

## IV. Statutory Provisions

Number of legislations are enacted by the Govt. to eradicate the subjugation of women and to prevent her from a variety of wrongs, such as

<sup>503</sup> Vishal Sai, “Breaking the Stereotypes: Toxic feminism in India and its impact on Jurisprudence” 2 *Indian Journal of Law and Legal Research* 5(2023).

<sup>504</sup> Dasgupta S, “Women power: Beginning at the lowest level” *The Statesman*, June, 18, 2025.

<sup>505</sup> Aruna, C. and Reddy, T. Chandra Mohan, “What support by kin to widows” 62 (1) *Indian Journal of Social Work* (2001)

<sup>506</sup> Hearn Jeff, “Men stopping men’s violence to women” 44(3) *Development* (2001).

<sup>507</sup> Preeti Sharma, “Hindu women’s right to maintenance”<sup>85</sup> *Deep Publication* (1990).

<sup>508</sup> Legal Service in India, “Women issues and laws in India” available at: <https://www.legalserviceindia.com/laws/women-issues.htm> January 5, 2023 (last visited on March 7, 2025).

<sup>509</sup> The Constitution of India, art. 14.

<sup>510</sup> The Constitution of India, art. 15.

<sup>511</sup> The Constitution of India, art. 16.

<sup>512</sup> *Supra* note 11.

<sup>513</sup> The Constitution of India, art. 51A.

<sup>514</sup> Eileen R. Kaufman, “Women and Law: A comparative analysis of the United States and Indian Supreme Courts Equality Jurisprudence” 34 *Georgia Journal of International and Comparative Law* 3(2006).



“Dowry (Dowry Prohibition Act, 1961), Domestic Violence (Protection of Women from Domestic Violence Act, 2005, Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 and Immoral Trafficking (The Immoral Traffic Prevention) Act, 1956. In 1860 Govt. decided to add section 498A to Indian Penal Code to increase the likelihood that those who commits acts of cruelty against women were be brought to justice.

Section 326A<sup>515</sup> and 326B<sup>516</sup> of IPC Acid attack on women or Attempt to Acid attack specially creates for women to protect her and impose imprisonment and fine to accused which must be fair and enough to medical bills to the victim.

Section 354A<sup>517</sup> Sexual harassment of women protects her from any oral and physically sexually harassment caused by accused.

Section 354B<sup>518</sup> Assault or use of Criminal Force to woman with intent to disrobe also refrain from participating in any behavior that diminish their worth.

Section 354C<sup>519</sup> Voyeurism also protect the respect of woman engaged in a private act.

Section 354D<sup>520</sup> Stalking also protects her from males who engage in illegal and harassing practice of this act.

Women’s Reservation Bill<sup>521</sup>– known as 108<sup>th</sup> Amendment Bill, oftenly known as Women’s Reservation Law is under consideration for reserving 33% of the seats in Lok Sabha and Legislative Assemblies for women.

Preconception and Pre-natal Diagnostic techniques Act, 1994<sup>522</sup> passed with intention of putting an end to practice of female foeticide and reserving the trend of a decreasing sex ratio in India.

Equal Remuneration Act, 1976<sup>523</sup> – Under this legislation employer is duty bound to offer and pay fair remuneration to male female for equivalent labour or employment. This prohibition applied even though occupation of women not specifically forbidden or limited by the laws that are already in place.

Hindu Succession Act, 1956<sup>524</sup> – deals with intestate or unwilled succession in India and 2005 amendment was a crucial shift towards elimination of bias and removes all impediments placed on ownership rights of women by allowing them to have complete ownership whatever property they may acquire at any point in future. Through 2005 amendment gave women same rights as men when it came to inheriting property. Allow her to own property without any future action being required on their part.

## V. Judicial Approach

To protect the basic liberties of women, legal system in every part of the world is a major player in the fight. Through its various pronouncements the Supreme Court upheld the rights of women and protect it from various derogatory practices.

In **T. Saritha V. Venkata Subbaiah**<sup>525</sup> The Apex Court involving a question of restitution of conjugal rights came to conclusion that remedy provided under the provision is savage and barbarous, remedy attack on right to privacy and human dignity guaranteed under Article 21 Constitution of India. This came as the result of the court’s decision.

In **All India Democratic Women’s Association V. Union of India**<sup>526</sup> Supreme Court on hearing the PIL related to the practice of “Sati” said that Roop Kanwar’s alleged Sati in Rajasthan should not be allowed to be glorified, and that ban on organizing a country ceremony should remain in place to prevent it.

<sup>515</sup>The Bharatiya Naya Sanhita, 2023 (Act 45 of 2023), s. 124(1).

<sup>516</sup> The Bharatiya Naya Sanhita, 2023 (Act 45 of 2023), s. 124(2).

<sup>517</sup> The Bharatiya Naya Sanhita, 2023 (Act 45 of 2023), s. 75.

<sup>518</sup> The Bharatiya Naya Sanhita, 2023 (Act 45 of 2023), s. 76.

<sup>519</sup> The Bharatiya Naya Sanhita, 2023 (Act 45 of 2023), s. 77.

<sup>520</sup> The Bharatiya Naya Sanhita, 2023 (Act 45 of 2023), s. 78.

<sup>521</sup> Women’s Reservation Bill (The Constitution 108<sup>th</sup> Amendment) Bill, 2008.

<sup>522</sup>The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (Act 57 of 1994).

<sup>523</sup>Equal Remuneration Act, 1976 (Act 25 of 1976 amended by Act 49 of 1987).

<sup>524</sup>The Hindu Succession Act, 1956 (Act 30 of 1956).

<sup>525</sup>AIR 1983 AP 356.

<sup>526</sup> AIR 1989 SC 1280.



**Air India V. Nargesh Meerza**<sup>527</sup> The Supreme Court declared existed employment policies invalid which discriminated against women by denying employment when they were married or pregnant and by demanding from them to acquire Govt. approval before getting married.

**Vishaka V. State of Rajasthan**<sup>528</sup> The Supreme Court pronounced that when women experience gender specific violence, such as sexual harassment at work, resultantly it hinder their ability to achieve employment equality and thereby put forth rules to prevent sexual harassment to promote at the work place gender equality.

In **Mackinnon Mackenzie and Co. Ltd. V. Audrey 'D' Costa**<sup>529</sup> The Supreme Court directed the management to pay equal remuneration to steno female worker as like male stenos according to Equal Remuneration Act, 1976 alongwith given verdict that financial capacity of the management cannot be used to seek exemption from Equal Remuneration Act, 1976.

In **Hari Haran V. Reserve Bank of India**<sup>530</sup> The Supreme Court while interpreting Sec.15 of Guardianship Act equate the position of mother to that of father in the matter of guardianship.

## VI. Review of Literature

Abundant materials have been written in favour of women rights which are misused by her. Due to various lacunas in these provisions a detailed study and areas will be established to find the areas of better implementation.

**Manjula Batra**, in his book had explained about the status of women in society. What are the rights provided or given to her in Indian Constitution, Criminal and Human rights?

Author **Denise Meyerson** in his book had explained about Jurisprudence in detail. Various citations are explained and history is provided according to by which anyone will understand

about the Jurisprudence concept and how to apply them in current time.

In his book **P. Ishwara Bhat** explained the changes in society with changes in time alongwith explain that how law made in favour of women and initiative taken by Govt. to enact them. Author mentioned all offences committed against women without explaining them in detail. Only Provisions are mentioned but not history.

**K.D Gaur** explain all section of IPC alongwith cases in detail. Without providing comparative study of laws in different countries explained what should be done to have more effective provision to stop crime.

In book authored by **Ratanlal and Dhirajlal** main objective is to aware the readers about the principles of criminal procedure code. It is presented in convenient arrangement molded into a system of heading and subheadings. Majority landmark cases of Supreme Court and High Court are covered in it.

In his book **Dr. S.R. Myneni** explained in detail the crimes against the women India, the root cause of crimes, existence of present laws to stop such crime. Only author fails to report cases in detail and comparison with other countries.

## VII. Conclusion

Due to Pervasive worldwide issue of violence against women, it lower down the level of development in every country. To safeguarding the interest of women implementation of laws important for effective governance of nations and societies. The laws acceptable in earlier centuries may no longer considered reasonable in current time. Therefore, laws should be reassessed from time to time and makes changes according to the demands of society.

On examining the facts regarding misuse of laws by women, it is important to dispel the notion that it is purely myth. Upon closer observation it is transpired that every current law is being misused. Existence of misuse does not render law ineffective or warrants its repeal.

<sup>527</sup> AIR 1981 SC 1829.

<sup>528</sup> AIR 1997 SC 3011.

<sup>529</sup> AIR 1987 SCR (2) 659.

<sup>530</sup> AIR 1999 SC 1149.



It is seen from the current legislation that implications of gender based legislation and its possible impacts on males, with a particular. It is observed through study that how women loss to society by using erroneously legal status, including Section 498A and 304B of IPC, Domestic Violence Act, Dowry Prohibition Act. This Study examining implications of gender based legislation and its possible impact on males, along with particular focus on finding areas where men faces problems focus on finding areas where men may face disadvantages.

A comparative study can provide valuable insights into the adequacy of national laws and offer recommendations for potential reforms to make certain legal system aligned with improving global standards on women's right and protection.

### VIII. Suggestions

The increasing trend of legal framework to addressing sexual assault against males has become more pertinent in apprehensions for abuse of laws by women against men have significant approach. Following are suggestions through which abuse India, where of laws by women can be curtailed.

**A. Campaign** – The Govt. should from time to time run legal awareness campaigns regarding consequences of imposing false accusation against accused through various communication means alongwith discuss how these baseless allegations hamper the pursuit of justice for genuine survivors.

**B. Strict Consequences**– The Govt. should make law stricter to realize the person with imputing false allegations against men and promoting them to think twice before resorting to false accusations. This shift aligns with the broader principle of justice, where both parties involved are treated fairly and equitably.

**C. Enhanced Investigation protocols**– This approach represents with principal of "Innocent until proven guilty". The objective to adapt this

to ensure inquiries conducted with utmost efficacy

and impartiality before any apprehensions are made consequently it increases public trust in the legal system that justice is pursued without bias or haste.

**D. Legal Reforms**– There should be collaborative approach of legal experts, legislators to conduct comprehensive examination of present laws with aim of identify specific areas where further protection might be enhanced. This all reduces the false apprehensions merely on the complaint of victim and consequently guaranteeing the substantial proof before initiate any legal criminal proceeding against the accused.

**E. Support Services**– There should be a specialized support services for male persons. These services include Medical aid, Counseling, Crisis helplines, Rehabilitation courses to create a complete support system.

**F. Special Training**– The members of legal community such as attorneys, prosecutors, judges should have specialized training courses with the fundamental abilities and information to completely manage cases involving acts of sexual violence against males with top priority on gaining an awareness of particular obstacles that male survivors encounter along with trauma informed techniques and victim centered tactics.

**G. Participation of NGOs and Support Organizations**– With the joint support of legal professionals and NGOs, assistance can be provided to male victims of sexual violence through arranging awareness campaigns, offering resources and training resulting into best practices. Moreover, the legal practitioners have ability to augment their comprehension of the requirements of male survivors and enhance their provisions of supportive measures.

By dissemination of knowledge to general public and involvement of legal experts, a cooperation of legal practitioners and pertinent



parties make a valuable contribution to fostering society that is more adept at acknowledging and providing help to male victims of sexual assault.

