Legal Rights of Men in India: Need for a Gender Justice System

AI Disclosure Statement

"*Artificial Intelligence tools were used in the preparation of this work appropriately to edit grammatical errors, enhance sentence clarity and structure, and properly format citations and references. All ideas within are the author's own work*."

ABSTRACT

The Indian Constitution enshrines equality, justice, and protection against discrimination through Articles 14, 15, 21, and 39A. At the same time, several laws relating to domestic violence, dowry offences, maintenance, and cruelty have been enacted to protect women from gender-based discrimination. However, the question arises whether men have comparable legal rights in similar situations. The article discusses the legal rights of men in India and highlights the need for gender-just laws that protect both men and women. It also focuses on the constitutional rights provided to both genders. It analyses the provisions of the relevant laws, including Section 85 of the Bharatiya Nyaya Sanhita, 2023 (Section 498A of the Indian Penal Code, 1860), the Protection of Women from Domestic Violence Act, 2005, Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 concerning maintenance, the Dowry Prohibition Act, 1961, and other acts. Furthermore, the article cites the judgments of the cases *Arnesh Kumar v. State of Bihar, Sushil Kumar Sharma v. Union of India, Rajesh Sharma v. State of Uttar Pradesh, and Social Action Forum for Manav Adhikar v. Union of India* to demonstrate the responses of the judiciary to the issues of gender discrimination and misuse of legal protection. The article concludes that India must strive for justice-based laws, which would provide equality and protection to both genders and prevent the misuse of the existing legal provisions for domestic violence, dowry offences, maintenance, and cruelty.

Keywords:

Men's Rights, Gender-Neutral Justice, Constitutional Equality, Judicial Safeguards

I. INTRODUCTION

The Constitution of India is the supreme law of the country and is based on the principles of equality, social justice, liberty, and dignity. Articles 14, 15, 21, and 39A[1] provide for equality before the law, protection against discrimination, right to life and personal liberty, and equal justice, respectively. Although the Constitution and the rights guaranteed by it apply to all Indians irrespective of gender, some laws specifically address issues that disproportionately affect women. For example, several special laws have been enacted concerning dowries, protection from domestic violence, and providing maintenance to women, as well as for matters related to marriages. These laws have benefited many vulnerable women and contributed significantly to gender justice.

Nevertheless, gender discrimination in society, as well as the misuse of laws made for the welfare of women, has led to debates about the sufficiency of the rights granted to men. In particular, the offence of cruelty by a husband or his relatives against a woman, which was previously addressed under section 498A of the Indian Penal Code,1860, is now provided for under section 85 of the Bharatiya Nyaya Sanhita, 2023. The meaning of the term 'cruelty' is defined in section 86 of the Bharatiya Nyaya Sanhita, 2023. Men have often been harassed on false pretences of dowry harassment as well as maintenance claims, leading to several judgments by the courts. Despite this, the existence and operation of laws protecting women against cruelty cannot be ignored. Various judgments have indeed shown judicial awareness of potential misuses, but at the same time emphasize the necessity of such laws for women who are subjected to domestic abuse.

Several judgments have demonstrated the judiciary's awareness of the problem without undermining the need for such laws to protect women from domestic violence. This article aims to demonstrate what rights men possess under the Indian Constitution. Furthermore, by analyzing various constitutional laws and judgments, the article concludes that men are not granted equal rights in comparison to women. The article highlights the need for gender justice by emphasizing the necessity to make laws that consider the well-being of both genders equally.

[1.] The Constitution of India arts. 14, 15, 21 & 39A.

II. LEGAL FRAMEWORK

1. Constitutional Framework

The Constitution of India is the supreme law that provides equality, dignity, and justice to every citizen within the territory of India, regardless of gender. Despite the existence of special provisions for women under Article 15(3), the Indian Constitution grants equality to men under the following rights:

• Equality before the law and equal protection of the laws as provided under Article 14;[2]

• Right to freedom from discrimination on the grounds of religion, race, caste, sex, or place of birth as provided under Article 15;[3]

• Right to life and personal liberty as provided under Article 21;[4] and

• The State's duty to secure justice and free legal aid to every citizen as provided under Article 39A.[5]

2. Gender-Based Crimes Law

India has a set of criminal laws to ensure protection of women against the crimes of domestic violence and dowry. In particular, Section 85 of the Bharatiya Nyaya Sanhita, 20236 (Section 498A of the Indian Penal Code, 1860)7 criminalizes cruelty by a husband or his relatives against a wife and provides punishment for such crimes. In addition, the Protection of Women from Domestic Violence Act, 2005[8] recognizes a woman subjected to domestic violence as a victim and offers her remedies in a civil proceeding. However, Section 85 of the Bharatiya Nyaya Sanhita, 2023 and the Protection of Women from Domestic Violence Act, 2005 have faced criticism for being misused in family disputes to harass relatives by filing false criminal complaints. Nevertheless, the Supreme Court reiterated the importance of the provisions while emphasizing the need for caution in exercising them.

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[2] The Constitution of India, art. 14.
[3] Id. art. 15.
[4] Id. art. 21.
[5] Id. art. 39A.
[6] The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 85.
[7] The Indian Penal Code, No. 45 of 1860, § 498A.
[8] The Protection of Women from Domestic Violence Act, No. 43 of 2005.

3. Maintenance

Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023,[9] provides for maintenance of a wife, children, and parents who are unable to maintain themselves. The concept of maintenance in India has been inspired by patriarchal societal norms under which men are considered to be the breadwinners while women are financially dependent on their husbands. However, changing social and economic realities have prompted the need for reform and the introduction of gender-neutral maintenance laws in certain cases.

4. Judicial Measures for Curbing Misuse of Laws

In India, the judiciary has adopted a rights-based approach to balancing women's protection and men's right not to be harassed through false charges. In *Arnesh Kumar v. State of Bihar, 2014*,[10] the Supreme Court instructed the trial court to ensure that arrests under Section 85 of the Bharatiya Nyaya Sanhita, 2023 (Formerly Section 498A of the Indian Penal Code, 1860) require compliance with Section 41 of the Code of Criminal Procedure (now Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023). In *Sushil Kumar Sharma v. Union of India, 2005*,[11] the Supreme Court took a similar view of the matter and clarified that the mere fact that a particular law is misused cannot be a reason for dismissing its application, although it should be used with caution. The identical approach was adopted in *Rajesh Sharma v. State of Uttar Pradesh*, *2018*, with further modifications in *Social Action Forum for Manav Adhikar v. Union of India, 2018*. In particular, the latter decision eliminated some provisions regarding registration of First Information Report (FIR) or bail.

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[9] The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 144.
[10] *Arnesh Kumar v. State of Bihar,* (2014) 8 SCC 273 (India).
[11] *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281 (India).

III. JUDICIAL INTERPRETATION

The Indian judiciary has played a major role in interpreting and addressing gender-specific laws while ensuring the rights of equality, personal liberty, and fair legal procedures. Indian laws like cruelty, domestic violence, maintenance, and dowry offences were meant to protect women against gender discrimination, but the courts have repeatedly held that these laws should not be misused for targeting individuals.

The significant judgments include *Arnesh Kumar v. State of Bihar, Sushil Kumar Sharma v. Union of India, Rajesh Sharma v. State of Uttar Pradesh, and Social Action Forum for Manav Adhikar v. Union of India*.

Arnesh Kumar v. State of Bihar

This case dealt with the allegations under section 498A of the Indian Penal Code, 1860, and section 4 of the Dowry Prohibition Act, 1961.[12] The Supreme Court took notice of the fact that registration of a First Information Report without verifying credible evidence leads to misinterpretation of Section 498A of the Indian Penal Code, 1860, and section 4 of the Dowry Prohibition Act, 1961, and termed it an arbitrary exercise. It held that the provisions are being misused to harass innocent husbands and their parents. The Court gave necessary directions to the police to follow procedures while registering the First Information Report as well as time and again to judicial Magistrates while remanding the person in custody. The direction of the Supreme Court has reduced harassment of individuals by police.

Sushil Kumar Sharma v. Union of India

This case was regarding the constitutional validity of Section 498A of IPC. *Sushil Kumar Sharma* challenged the constitutional validity of this section in the Supreme Court. He argued that the provision was being misused by the people to harass husbands and their parents.

The Supreme Court, in its judgment, held that it cannot cancel or invalidate any law on the ground that it may be misused by the people. It further held that every law may be misused by people to harass others, but it should not become a reason to declare any law as invalid. However, the Court also took care to note that false and malicious complaints should not be entertained.

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[12] The Dowry Prohibition Act No. 28 of 1961, § 4 (India).

Rajesh Sharma v. State of Uttar Pradesh

This judgment [13] dealt with the issues of misuse of Section 498A of IPC. The Supreme Court observed that due to a large number of false complaints being filed, it becomes mandatory to take suo motu cognizance by the courts while dealing with such cases. It laid down various guidelines to the police as well as the courts in order to prevent misuse of section 498Aof IPC. The Court suggested constituting a Family Welfare Committee to deal with disputes before taking cognizance of any offence and to encourage settlement of marital disputes in order to prevent unnecessary arrests and unnecessary criminal cases against any person. The Court further held that false and malicious complaints should not be entertained.

Social Action Forum for Manav Adhikar v. Union of India

This case[14] dealt with the same issue as in *Rajesh Sharma v. State of Uttar Pradesh*. However, the Supreme Court in this judgment held that the directions given in the *Rajesh Sharma v. State of Uttar Pradesh* cannot be implemented if they conflict with any of the statutes. It further withdrew some of the directions given in the Rajesh Sharma case, including the directions regarding the Family Welfare Committee. However, it reiterated that while dealing with the cases under section 498A of IPC, the investigating agency should not make any arbitrary arrests.

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[13] *Rajesh Sharma v. State of Uttar Pradesh,* (2018) 10 SCC 472 (India).
[14] *Social Action Forum for Manav Adhikar v. Union of India,* (2018) 10 SCC 443 (India).

IV. COMPARATIVE ANALYSIS

The concept of "gender justice" has evolved significantly in different jurisdictions. While many countries have passed laws to protect women from violence and discrimination, others have adopted gender-neutral laws that promote equal treatment despite gender-based differences. The comparison below shows how India differs from the UK, Canada, and Australia in terms of legislation related to domestic violence and dowry offences. It also explains why laws in these countries may help achieve gender justice by protecting weaker groups and ensuring equal treatment.

India: Majority of Legislation is Gender Specific

India's laws relating to dowry offences, domestic violence, and maintenance are mostly gender-specific. For example, the Protection of Women from Domestic Violence Act, 2005 protects married women from abuse, harassment, and violence. Other sections of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), including section 85 and section 144 respectively, focus on similar issues. They penalize cruelty by husbands or their relatives and provide for the maintenance of wives, children, and parents.

The rationale behind such laws is straightforward – women in India used to be economically and socially disadvantaged. They are likely to experience spousal abuse, dowry-related harassment, and denial of financial support from their husbands or in-laws. However, India's gender-specific laws are subject to misuse, which resulted in the cases of *Arnesh Kumar v. State of Bihar*[15] *and Sushil Kumar Sharma v. Union of India.*[16] These landmark judgments recognized the right of the offender to be protected from false allegations and promoted judicial restraint when responding to applications for protection orders. Thus, India's laws relating to domestic violence and maintenance are mostly gender-specific but limit the rights of offenders by imposing stringent procedures for filing protection claims.

[15] *Arnesh Kumar,* (2014) 8 SCC at 273 (India).
[16] *Sushil Kumar Sharma,* (2005) 6 SCC at 281 (India).

The UK: Protection is Gender-Neutral

The majority of the UK's domestic violence laws are gender-neutral to ensure gender justice. For instance, the Domestic Abuse Act, 2021[17] applies to all types of controlling, coercive, and violent behavior exhibited by either spouse. Protection orders, criminal offences, sentencing, and victim support are provided on a gender-blind basis. Men who are subjected to spousal abuse can also apply for a protection order when their partner is violent, harassing, or threatening.

Domestic violence courts take measures to protect the applicants from further harm while ensuring that the respondents are not falsely accused. Men can receive the same support from law enforcement agencies, including emergency shelter, policing, and legal aid. Gender justice is promoted by considering the needs of victims and treating offenders equally regardless of their gender.

Canada: Criminal Justice System is Gender-Neutral

Canada's criminal laws[18] relating to domestic violence are gender-neutral but provide extended protection to victims. The Canadian Criminal Code does not make any distinction between male and female victims or spouses. As a result, both genders are protected from assault, harassment, and threats. Courts issue protection orders, provide restitution, and award victim surrogates while considering evidence rather than the social status of the accused.

Canada's approach to domestic violence prevents secondary victimization and promotes gender justice by treating all individuals equally. For instance, judges can sentence abusers to longer prison terms, place them on probation, require victim impact statements, and require restitution to the victim. Everyone who appears in court has the right to counsel, a jury trial, and due process. The principle of equal protection is also reflected in domestic violence legislation, which obliges judges to issue protection orders unless they find reasonable grounds to refuse them.

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[17] Domestic Abuse Act 2021, c. 17 (U.K.).
[18] Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982.

Australia: Most Legislation is Gender-Neutral

Similar to the UK and Canada, Australia's domestic violence laws are gender-neutral at the state level. Family violence legislation allows both men and women to seek protection from harassment or assault. Everyone can apply for a protection order because Australia's domestic violence laws[19] take a gender-blind approach when dealing with controlling, coercive, and threatening behavior. Children, adults, or elderly people can also receive support from community workers, police, or family lawyers when experiencing relationship problems or abuse.

Australia's laws relating to family violence promote gender justice by taking steps to prevent secondary victimization through early intervention. Courts facilitate mediation between family members whenever possible but require police to offer 24-hour assistance to individuals experiencing family violence. Offenders can also access counseling, community-based treatment, and correctional programs.

Comparison and Conclusion

Laws relating to domestic violence in the UK, Canada, and Australia are mostly gender-neutral, while India's domestic violence laws remain gender-specific. However, India's apex court took steps to restore gender justice by interpreting protection orders in a gender-blind manner. The comparison shows that the principle of equality underpins gender-neutral domestic violence laws. Its importance is further highlighted by the fact that India's constitution prohibits gender discrimination and upholds the right to life and personal liberty under Articles 14 and 21, respectively. By contrast, the gender-specific laws in India fail to comply with the principles of natural justice or the rule of law because they limit the rights of offenders to a fair trial, especially when responding to protection orders. It is important to recognize that gender justice aims to protect all individuals and not just women, regardless of their socio-economic status. Thus, a gender-blind approach to domestic violence legislation is more effective in promoting gender justice while protecting the weak and vulnerable.

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[19] Family Law Act 1975 (Cth) (Austl.).

V. CONCLUSION

India has taken numerous steps to provide gender justice to its female citizens by protecting them against domestic violence, dowry, cruelty, and other related issues. Similarly, the legal system in the country has developed various laws to safeguard the rights of women from gender-based discrimination. Nonetheless, the Indian Constitution provides justice based on the equality principle, which demands that every individual should co-exist without discrimination on gender, status, and title.

The current paper aimed to review different aspects of legal rights of men in the country. The constitutional laws and statutes, along with relevant cases and comparison with other countries' legal frameworks, were considered to assess the issue of interest. As a result, it was revealed that even though the Indian Constitution provides justice based on the equality principle (Articles 14 and 15), protection of life and personal liberty (Article 21), and equal justice (Article 39A), several gender-based laws lack procedural justice, which puts the rights of men at stake. Cases handled by the Supreme Court, including *Arnesh Kumar v. State of Bihar, Sushil Kumar Sharma v. Union of India, Rajesh Sharma v. State of Uttar Pradesh, and Social Action Forum for Manav Adhikar v. Union of India,* have shown that the judiciary system in the country has taken a keen interest in addressing the issue of gender-based laws by balancing the rights of the accused and victims. The problem of gender-based laws has also been addressed by countries such as the United Kingdom, Canada, and Australia, which have emphasized gender-neutral laws that offer protection to the vulnerable parties without putting the rights of the other party at stake. Indeed, laws meant to protect women from gender-based violence should be gender neutral to offer equality and justice to both genders.

The current paper sought to highlight the issue of gender justice, and based on the reviewed aspects, it can be concluded that gender justice should not be taken as a matter of who has more rights but a gender-based issue involving the rights of every citizen to claim and obtain compensation under the law. Therefore, there is a need to emphasize protecting the vulnerable groups while ensuring that the accused are also protected based on their moral rights.

Some of the reforms that can be considered include strengthening procedural justice, enhancing investigative justice, and taking a closer look at the possibility of developing gender-neutral laws that can be used in handling cases involving gender-based violence. The reforms will help to ensure that the constitutional rights of every citizen are protected and justice is administered.