
GENDER NEUTRALITY IN INDIAN LEGISLATION: A CONSTITUTIONAL AND SOCIO-LEGAL ANALYSIS¹

Dr. Prakhar Puranik, Assistant Professor, School of Law & Public Policy, Avantika University

Ms. Kasturi Pathak, BBA LLB (Hons.), School of Law & Public Policy, Avantika University

ABSTRACT

Contemporary Indian jurisprudence reveals a profound gender asymmetry in protective legislation with laws overwhelmingly favoring women in domestic violence, sexual harassment and matrimonial disputes while denying men equivalent legal recourse. This disparity not only establishes institutional bias but also contributes to a silent crisis of male vulnerability, as evidenced by escalating suicide rates among married men and well documented misuse of women-centric provisions like Bharatiya Nyaya Sanhita Section 85 (cruelty by husband or relatives). This study confronts the urgent imperative to scrutinize the absence of comprehensive protections for male victims, interrogating how gender-specific frameworks undermine India's constitutional commitment to equality under Articles 14 and 15. Recent National Crime Records Bureau (NCRB) data gives us the data where married men comprise 72% of male suicides, with matrimony elevating men's suicide risk by approximately 6% while conferring relative safety for women. Bridging feminist jurisprudence, masculinity studies and critical legal theory, this study analyzes NCRB statistics, landmark judgments and international gender-neutral models from the UK and Canada. It proposes transformative reforms like gender-neutral amendments to BNS Section 85 and the Domestic Violence Act, procedural safeguards like mandatory Family Welfare Committees, establishment of a National Commission for Men and judicial guidelines prioritizing evidence over gender presumptions. By exposing societal biases and institutional prejudices, this study charts a path toward substantive constitutional equality protecting all genders without diluting historical safeguards ensuring justice transcends competition for victimhood and fulfills India's egalitarian vision.

Keywords: Gender Justice, Human Rights, Crimes against Men, Criminal Laws, BNS, BNSS.

¹ Dr. Prakhar Puranik, Assistant Professor, School of Law & Public Policy, Avantika University
Ms. Kasturi Pathak, Student, BBA-LLB (Hons.), School of Law & Public Policy, Avantika University

I. Reimagining Gender-Neutral Protective Laws in India's Constitutional Framework

In the hallowed halls of Indian constitutionalism, the pursuit of gender equality under Articles 14 and 15 stands as a beacon yet one increasingly dimmed by the shadows of gender-specific protective laws that tilt the scales decisively toward women. This paper embarks on a critical analysis to interrogate the constitutional validity of such legislation, particularly through the lens of Article 14's mandate for equal protection before the law. At its core, the research dissects provisions like Section 85 of the Bharatiya Nyaya Sanhita 2023 (BNS) the successor to the often misused IPC Section 498A revealing how their women-centric legal architecture not only presumes male culpability in domestic cruelty but also unleashes devastating repercussions on male defendants and their families with prolonged legal battles, financial ruin, reputational shredding and emotional trauma that also culminates into some tragedy.

The analysis extends further, rigorously assessing the adequacy and inadequacy of existing remedies for male victims of domestic violence and harassment under the BNSS framework. However, women invoke the Domestic Violence Act, 2005 with ease, men navigate a legal conundrum, their pleas get dismissed amid societal presumptions of non addressal of laws. Drawing parallels with international best practices, this study evaluates gender-neutral models from common law jurisdictions like the United Kingdom's Criminal Justice Act 2003 and Canada's Criminal Code, which impose safeguards against false accusations while ensuring protections for all. From this foundation, this paper proposes a nuanced reform framework, one that equilibrates safeguards for historically vulnerable groups with universal access to justice, forestalling the pendulum swing from patriarchy to matriarchal overreach. Yet, this is no doctrinal exercise where the study probes deeper, unmasking the insidious role of societal perceptions rooted in archaic stereotypes of male stoicism and institutional biases within police stations, courts and mediation bodies that perpetuate gender-based legal discrimination. Over an exhaustive investigation, spanning the 1983 genesis of cruelty provisions to the 2023 BNS reforms, this study remains India-centric yet enriched by global comparisons, acknowledging its limitations in NCRB data underreporting while delivering evidence-based recommendations for legislative equilibrium.

Gender equality, that ideal utility of law which we collectively chase, compels whether we are truly seeking parity or have we devolved into a zero-sum contest for recognition and validation? As eras shift, so do our interpretations once, women, children and the elderly were

deemed the world's vulnerable, nations put significant efforts to elevate them, yielding big triumphs. But a fruitful solution to this vision demands evolution, not a blockage. Consider the idea of definitions that illuminate us with true equality, some say that, as rights and opportunities unbound by gender, violating the rights of men, trans individuals and gender-diverse souls alike. UNICEF envisions equal conditions for all to unleash human potential across societal spheres and the Oxford Review crystallizes it as undifferentiated rights in education, work, health and power.

These voices converge on a singular truth, equality is fairness for every soul, not favoritism for one. Today, it clashes starkly with gender bias, where women's historic discrimination is undeniable yet men's quieter inequities, though less frequent, demand acknowledgment and remedy. Our laws, mindsets and motives, once egalitarian in intent, now betray a lopsided gaze, misinterpreting equality as women's monopoly. It is time to converse candidly about men's rights, in case we do away with the constitutional rights into disproportionate promises.

II. The Legal Anatomy of Gender-Specific Laws in India: Colonial Relics in a Modern Crisis

India's criminal justice framework rests precariously on laws exceeding 150 years in vintage colonial legislations like the Indian Penal Code of 1860 and Code of Criminal Procedure of 1973, now replaced by the Bharatiya Nyaya Sanhita 2023 (BNS) and Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS). While these reforms signal decolonization, their substantive core retains archaic gender asymmetries ill-suited to 21st-century India's social change. Provisions such as BNS Section 85, formerly IPC Section 498A, criminalizing cruelty by husband or relatives of a woman, epitomize this disconnect. Enacted with noble intent to protect married women from dowry harassment and domestic violence, these laws now provoke profound concern, that is, their rigid, women exclusive application which results in confusion, arbitrary enforcement and a legal landscape where progressive evolution outpaces statutory adaptation. In an era of nuclear families, empowered women and common marital conflicts, applying century old presumptions of female perpetual victimhood and male inherent villainy raises existential questions about justice's very essence.

Historically, India's legal trajectory sought parity, mirroring constitutional mandates under Articles 14 and 15 to accord women equivalent opportunities and dignity. Yet, in this ardent pursuit, global citizenry and Indian society at large has given rise to a distorted perceptual

judgment. What began as feminism's clear call for equality has, for a determined legal right, which has now often reduced to 'pseudo-feminism,' a principle approaching a critical analysis. No longer confined to the legitimate pursuit of equality and justice, certain contemporary gender discourses have increasingly assumed an adversarial character, framing the relationship between men and women within a zero-sum paradigm. In this evolving narrative, the male individual is, at times, perceived not as a complementary participant within the constitutional social order, but as an obstacle to be neutralized through coercive legal mechanisms. This shift becomes particularly visible in matrimonial litigation, where prosecutions under Section 85 of the Bharatiya Nyaya Sanhita are occasionally invoked at the threshold stage in a manner that subjects not merely the spouse, but entire familial structures, to the rigours of non-bailable criminal process under the Bharatiya Nagarik Suraksha Sanhita. The cumulative effect is the emergence of a legal environment in which the foundational constitutional objective of equality risks degeneration into a framework of retaliatory gender antagonism, thereby unsettling the balance between individual rights, due process and the institutional integrity of criminal jurisprudence.

Empirical evidence increasingly complicates the conventional one-dimensional understanding of gender-based violence within intimate relationships. A 2022 study published in the *Egyptian Journal of Forensic Sciences* reported that approximately 52.4% of surveyed Indian men had experienced some form of gender-based violence during their lifetime. Among nearly one thousand male respondents, 515 disclosed exposure to violence perpetrated by spouses or intimate partners, while 105 reported incidents occurring within the preceding twelve months. The predominant form identified was emotional or psychological abuse, constituting nearly 51.6% of reported cases and encompassing patterns of persistent humiliation, coercive control, social isolation and economic manipulation. Physical violence was comparatively lower at approximately 6%, with only a limited proportion involving grave bodily harm. Significantly, the study also observed the prevalence of bidirectional violence in a substantial number of cases involving both emotional and physical abuse, thereby challenging simplistic assumptions that domestic violence invariably operates in a singular direction. Nevertheless, the data simultaneously acknowledged the continuing reality that women in India disproportionately suffer more severe forms of physical violence and consequential injury. The study further identified several socio-economic and structural correlates associated with heightened vulnerability, including low household income, limited educational attainment, nuclear family arrangements lacking intergenerational mediation and substance abuse by the perpetrator.

Interestingly, households involving economically independent and highly educated female spouses reflected a greater incidence of reciprocal physical conflict, indicating the complex and evolving dynamics of power, autonomy and interpersonal strain within contemporary matrimonial relationships. These findings underscore the necessity for a gender-just legal framework that remains responsive to all victims of domestic abuse while preserving the constitutional commitment to substantive equality and due process.

These empirical analysis, derived from studies spanning both urban and rural regions of India, raise significant questions regarding the continuing gender-specific architecture of certain criminal and protective legislations. While statutory frameworks such as Section 85 of the Bharatiya Nyaya Sanhita and the Protection of Women from Domestic Violence Act, 2005 were enacted to resolve historically entrenched discrimination and violence against women. Critics increasingly argue that the absence of gender-neutral remedial mechanisms leaves male victims of domestic abuse with limited legal recourse. Concerns regarding the potential misuse of matrimonial penal provisions are not novel. The Committee on Reforms of the Criminal Justice System chaired by Justice V.S. Malimath (2003), while examining Section 498A of the erstwhile Indian Penal Code, the precursor to Section 85 BNS, noted that its rigid non-bailable and non-compoundable structure often frustrated possibilities of reconciliation between estranged spouses. The Committee observed that the immediate registration of criminal proceedings, frequently accompanied by arrest of husbands and extended family members, could in certain circumstances produce disproportionate social and economic consequences, including loss of employment, reputational injury and prolonged familial disruption, even in cases ultimately ending in acquittal.

III. Key NCRB Statistics on Male Victims: Unveiling the Hidden Crisis

The National Crime Records Bureau's (NCRB) Crime in India reports, published through 2023, reveal a noticeable imbalance in the manner victimization data is categorized and presented. While detailed statistical classifications exist for crimes against women, children, senior citizens, and Scheduled Castes and Scheduled Tribes, data concerning male victims is often grouped within broader and less specific categories. This structural limitation restricts comprehensive gender-based analysis of violent crime and domestic conflict. NCRB homicide statistics consistently indicate that men constitute a significant majority of murder victims across India. In several cases, interpersonal and familial disputes—including marital discord,

property disagreements, extramarital relationships, and long-standing domestic tensions—have been identified among the contributing motives behind violent offences. However, the absence of systematic gender-disaggregated reporting for male victims limits public understanding of how relational violence affects men within domestic and familial settings.

Patterns reflected in suicide statistics further highlight this concern. NCRB data for 2022 showed substantially higher suicide rates among men compared to women, with married men accounting for a particularly large proportion of such deaths. Family-related stress, marital conflict, financial burdens, and prolonged legal or social pressures have repeatedly appeared among the reported contributing circumstances. These figures suggest the need for a more balanced and evidence-based discourse on mental health, domestic conflict, and victimization, one that recognizes the vulnerabilities experienced by all genders.

When examined collectively, below NCRB data raises important questions about the adequacy of existing frameworks for documenting and addressing male suffering within the broader criminal justice and social welfare landscape.

Year/Period	Key Metric	Details
2020-2024	Husbands killed by wives	Cases across Uttar Pradesh: 263, Bihar: 148, Rajasthan: 138, Maharashtra: 100, Madhya Pradesh: 79).
2022	Total murders	29,000 cases, males comprise majority of victims, driven by relationship disputes.
2022	Male suicides	Almost double for married men vs. married women (family problems primary cause)
2023	Overall crime rate	448.3 per lakh population; males dominant in violent crime categories

Data compiled from NCRB reports and state-level criminal records indicate that incidents of domestic and spousal violence involving male victims are not confined to isolated cases, but emerge across multiple jurisdictions, particularly in densely populated regions where

matrimonial disputes and dowry-related tensions remain socially significant. Such cases often arise within the broader context of marital breakdown, prolonged family conflict and adversarial legal proceedings. At the same time, acquittal trends under provisions relating to matrimonial cruelty, previously governed under Section 498A of the Indian Penal Code and now incorporated within the Bharatiya Nyaya Sanhita (BNS) have generated continuing debate regarding procedural fairness and evidentiary safeguards. A substantial number of accused individuals are ultimately acquitted or discharged after prolonged litigation, raising concerns among legal scholars and civil society groups about delays, pre-trial hardships and the broader social consequences of criminal accusations within family disputes.

The impact of such proceedings frequently extends beyond the courtroom. Individuals facing criminal allegations in matrimonial matters may experience significant psychological stress, financial instability, reputational harm and disruption of family relationships irrespective of the eventual judicial outcome. Legal expenses, employment difficulties, social stigma and prolonged uncertainty can collectively intensify emotional distress. NCRB suicide data has also repeatedly highlighted the vulnerability of married men within the broader landscape of mental health and family-related pressures, prompting calls for more comprehensive support systems and gender-inclusive welfare policies.

India possesses an extensive legal framework intended to protect vulnerable individuals from domestic abuse and harassment. However, continued public discussion has focused on the importance of balancing victim protection with procedural safeguards against misuse of law. Comparative legal systems such as those in the United Kingdom and Canada have adopted mechanisms including stricter evidentiary review, penalties for deliberate false testimony and structured preliminary assessments in certain categories of disputes. Supporters of reform argue that similar procedural refinements in India could strengthen confidence in the justice system by protecting genuine victims while reducing the risk of prolonged litigation arising from unsubstantiated claims. In this context, proposals for calibrated amendments to the BNS and BNSS increasingly emphasize fairness, accountability and equal access to justice as essential components of a modern legal framework.

IV. Development of Women Centric Laws

The country like India, from ancient times in dharma, has seen women as an integral part of society. A powerful verse from Manusmriti, “यत्र नार्यस्तु पूज्यन्ते स्मन्ते तत्र देवताः”, meaning “where

women are given due respect, even Gods like to reside there,” explains the frame of mind of our culture towards women. But urbanization has transformed the interpretation of patriarchal protection and safeguarding into considering women as weaker and more vulnerable. While the legal transformation has taken a shift, it has given an image of women as perpetual victims and men as the perpetrators, completely overshadowing the fact that crime does not take place based on gender.

Women-centric laws evolved in India and in the world by analyzing the discrimination and violence faced by women. Our Constitution of India embodies Articles such as 14, 15(3), 21 and the Directive Principles of State Policy, which empower the state to take measures to protect and promote women's welfare. Section 498 of the Indian Penal Code, 1860 (Section 84 BNS) safeguards married women from cruelty and physical violence. The Prevention of Sexual Harassment at Workplace Act, 2013 and the Domestic Violence Act, 2005 are special laws for women to prevent harassment at the workplace and domestic violence, respectively. The repealed criminal laws had dedicated chapters for violence against women. The Maternity Benefit Act, 1961 is an Act that provides maternity benefits to women. These laws were enacted for the benefit and empowerment of women, but they took the shape of being rigid, misused and gender-biased laws.

There are several examples through which the judiciary has held that these laws are being misused by women. In the similar case of *Kanaraj v. State of Punjab*, the court held that women are misusing the laws favoring them by involving people who are not offenders and therefore the court opined that unless the case or the accusations are proved beyond reasonable doubt, such persons cannot be involved. In the case of *Narayan G. Dastane v. S. Narayan Dastane*, the wife was accused of performing cruelty against her husband by misusing the laws favoring women. The court held her to be guilty of the offense and stated that physical cruelty can be performed by the stronger person on the weaker, but mental abuse or cruelty can be performed by any individual, as in this case, by a woman/wife on a man/husband. Another case, *Rajesh Sharma and Ors. v. State of Bihar*, addressed the misuse of women-centric laws by women and declared a few directions to avoid such misuse. This judgment was given with special focus on Section 498A of the Indian Penal Code. The court ordered the creation of a welfare committee to investigate cases under the said section and only after the final report by such committee would an arrest be made. In the case of *Sushil Sharma v. Union of India and Ors.*, the court opined that misuse of law will lead to legal terrorism in the system. The provisions were

enacted to shield women against atrocities on them, but not as a weapon for them to misuse the same. The Hon'ble Judge, in this case, stated that these laws are not made to aid the fraudulent motives of a person. The court also held that the function of the court is to detect the truth in accusations and decide on the matter after reasonable consideration. The Delhi High Court in *Sudesh Jhaku v. K.C. Jhaku* went beyond the laid limitations and opined in favor of gender-neutral laws as well. In the case of *State v. Sheodayal*, the High Court held that the modesty of a woman can be outraged by another woman under the application of Section 354. It was held in the case of *State of Himachal Pradesh v. Shree Kant Shekari* that rape is a crime against the fundamental Right to Life of a victim under Article 21 of the Constitution. Apart from the rape provisions and any other female-centric provisions in the law, it is particularly important in every sense to protect male rights against any general crime, just as women's rights are protected. After the cited instances of crimes against men, the importance of having gender-neutral laws becomes more evident. We talked about many such cases and there are more in history which are evident and enough to show us that men can also be victims. The case of Atul Subhash is a prime and accurate example of understanding the situation. In another case, a boy who was falsely accused of rape by his teacher committed suicide due to that allegation.

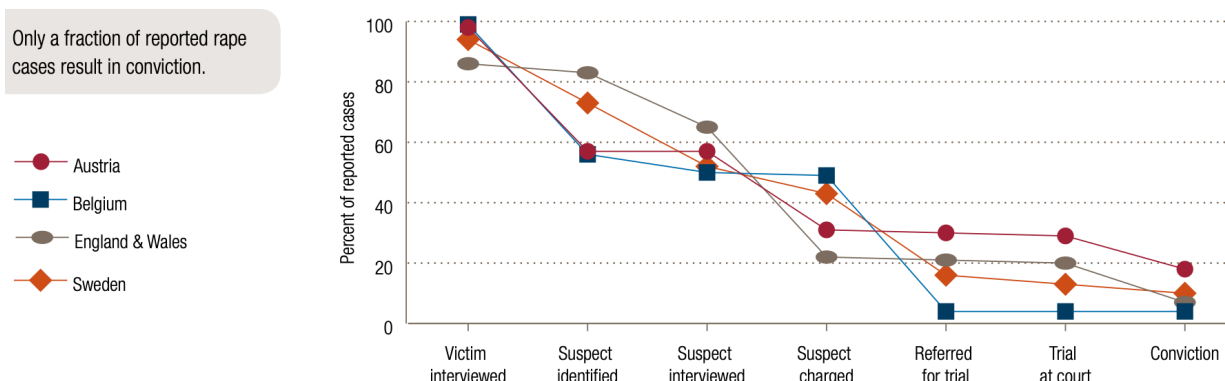
V. International Perspective on Women-Centric Laws:

Globally, many countries and organizations have enacted laws and treaties for women's safeguarding. There are number of countries that came together to bring initiatives and provide protection to women through making conventions and forming treaties. There are around 186 countries worldwide have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), signaling their commitment to meeting the human rights of women and girls, breaking down the barriers to gender equality and justice. Although equality between women and men is guaranteed in the Constitutions of 139 countries and territories, inadequate laws and implementation gaps make these guarantees hollow promises, having little impact on the day-to-day lives of women. The women from middle eastern countries like Saudi Arabia, United Arab Emirates, Egypt, Iran and Iraq are some countries are known as Emiratis women (belong to UAE), Iranian women, Omani's women, Saudi Arabian women. These women are known for balancing their traditional culture with embracing modern progress and building their careers. The literacy rate in their countries has risen remarkably since the early twenty centuries and these countries has also worked to empower their women with eliminating all kinds of discrimination in their countries. The literacy rate has risen to

93%, 95%, 80% and 91% respectively. These figures give us a positive response for countries working for women rights and their development. According to the World Bank the report on women, business and the law give us the data that here are only 10 countries which are Sweden, Denmark, France, Ireland, Belgium, Latvia, Luxembourg, Portugal, Canada and Iceland which have equal rights for both men and women.

A 2009 study of European countries found that, on average, 14 percent of reported rapes ended in a conviction, with rates falling as low as percent in some countries:

FIGURE 3: Rape case attrition in a sample of European countries



Source: Lovett and Kelly 2009.

This graph shows us the international study that depicts the condition of men's conviction rate and the cases filled. We know women has suffered a lot, but we cannot neglect the other portion of men who are the sufferer also. conviction rate is so low, which shows us how the laws is being misused not only in India but worldwide.

VI. Status of Women and Changing Society

The time has changed, society has changed and the situation is taking its turn. Now, with the current sixth World Female Imprisonment List released recently, the number has increased from 9,089 in 2000 to 23,772 in 2022 of women in prison. These numbers should not go unnoticed. The reason behind the increased crime rate, or say women turning criminals, can be psychological, developmental, violence faced for a long time and gender-based suppression. We accept that women are the victims of these kinds of offences for a long time, but let's also not neglect the data that 52.4% of men are victims of violence caused by their wives/partners. Furthermore, not only in household-related crimes, men also face crimes related to false accusations, societal challenges, mental torture and sexual assault. The point of discussion here

is to make a balance in legislation for men, women and other respective genders. All individuals need the same protection; we all require the same status, safety and freedom to live in a protected environment. Our Constitution has guaranteed us that, so why is our legislature lacking? Why do you always wait for a big situation to take appropriate action for that? Why can't we just be prepared prior? We understand the law-making process, but we also know why law exists: it exists to maintain law and order in a society where every individual feels safe to live, to make a set of rules to run a society. So why can't these rules be equal for everyone?

VII. Conclusion

The issue of gender imbalance in Indian protective laws shows how laws that were meant to address historical and structural disadvantages faced by women have, in some cases, marginalized men's rights. While the constitutional vision of equality under Articles 14, 15 and 21 calls for justice for all genders, the current legal framework tends to adopt a protectionist and gender-specific approach. This often overlooks the new vulnerabilities that men face in social, family and institutional situations. The study's findings reveal a complicated relationship between gender-specific legal frameworks and social outcomes. Laws addressing domestic violence, sexual offenses and marital disputes have empowered women and corrected long-standing injustices. However, evidence of misuse, false accusations, extended legal battles and a lack of remedies for men highlights some unintended negative effects. These issues emphasize the need to differentiate between genuine protection and overly broad legal assumptions that undermine fairness, due process and equal protection under the law. The paper advocates for moving beyond traditional feminist frameworks that focus solely on women's empowerment. A more inclusive view of gender justice should recognize that rigid gender roles and patriarchy can disadvantage everyone, including men. Topics like male victims of domestic violence, sexual abuse, workplace harassment, mental health issues and bias against men in custody cases are often overlooked in mainstream legal discussions. Addressing these matters does not lessen women's rights but rather strengthens the commitment to equality and human dignity.

VIII. Recommendations

1. Adoption of gender-neutral protective laws, especially regarding domestic violence, sexual offenses and family law, while maintaining special protections for those who genuinely need them.

2. Introduction of clearer definitions, procedural safeguards and penalties for proven misuse in legal provisions, ensuring accountability without discouraging valid complaints.
3. Reform in family law to emphasize shared parental responsibility and gender-neutral custody rules based on the child's best interests.
4. Establishment of a National Commission for Men to handle grievances, provide advice, conduct research on men's issues, recommend policy changes and promote mental health and welfare initiatives. This body would support, not conflict with, existing women-focused organizations, contributing to a balanced and inclusive approach to gender justice.
5. Further encouragement by the judiciary to align gender justice with constitutional values through interpretative methods that consider context, evidence and individual situations instead of rigid gender assumptions. Guidelines focusing on neutrality, fairness and restorative justice can greatly enhance the enforcement of gender-neutral provisions.