
GENDER JUSTICE OR GENDER BIAS: THE SILENT SIDE OF EQUALITY

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ABSTRACT

India's legal system has always tried to fix deep-rooted gender inequalities, and you can see this in laws like the Dowry Prohibition Act, Section 498A of the Indian Penal Code, and the Protection of Women from Domestic Violence Act. These laws have pushed women's rights ahead, no question. But honestly, if you look at recent court cases and what's happening on the ground, something else pops up: when people twist gender-specific laws, men can get the short end of the stick—in courtrooms and out in the world. So, this paper takes on a pretty tough question: While aiming for gender justice, has India ended up creating a different kind of gender bias? And does this go against the Constitution's promise of equality and due process in Articles 14 and 21?

To get to the bottom of this, the study looks at some major Supreme Court cases—*Sushil Kumar Sharma V. Union of India, Preeti Gupta V. State of Jharkhand, Arnesh Kumar V. State of Bihar, and Rajesh Sharma V. State of Uttar Pradesh*—shows how the judiciary is pushing back against people misusing Section 498A, trying to keep things fair for everyone involved. The paper uses a mix of legal analysis and comparison, focusing on how protective laws, court oversight, and constitutional values all interact. It doesn't just stop there—it calls for some real changes, like requiring a careful review before arresting someone, putting penalties in place for false accusations, and setting up Family Welfare Committees. The idea is to strike a balance between protecting people and holding them accountable. At the end of the day, the paper says real gender justice isn't about picking sides or protecting just one group. It's about recognizing that anyone can end up vulnerable, no matter their gender. If India wants true equality, the law has to change and look at everyone through a gender-neutral perspective. That's how the justice system can finally match up with both the spirit of the Constitution and international human rights standards.

Keywords: gender, justice, equality, cases.

Introduction

From the start, India's legal system has tried to stand up for women, recognizing the tough situations and injustice they've faced for ages. Over the years, lawmakers built a solid foundation of laws for women, like the Dowry Prohibition Act of 1961, Section 498A of the Indian Penal Code from 2005, and the Protection of Women from Domestic Violence Act in 2013, which tackles sexual harassment at work. These laws made a real difference in fighting violence and discrimination against women. Still, people are starting to talk about some unexpected problems, especially how these laws can sometimes be misused, leaving men exposed both legally and socially, with not much protection from institutions. This article dives straight into that imbalance. It digs into the lack of equal rights, remedies, and protections for men in the current system. It unpacks the laws, court rulings, real-life numbers, and even checks out what other countries are doing. But here's the thing: it's time to move toward a more gender-neutral approach. The idea isn't to take away the protection women need, but to make sure the law lives up to Article 14 of the Constitution—everyone gets treated equally. Gender justice should never turn into gender bias. Bottom line, legal protections should treat everyone equally—no exceptions¹.

Background

When the government finally got serious about stopping gender-based violence and discrimination against women, everyone started buzzing about men's rights in India's legal system. Everything shifted in 1983, when lawmakers introduced Section 498A into the Indian Penal Code. At the time, dowry deaths and domestic violence against married women were everywhere—things were completely out of hand. The murder of Shashibala Chaddha in 1979, for example, set off a wave of public outrage and pushed the government to finally step in. Making cruelty by husbands or their families a crime wasn't just a legal move—it was a direct response to real pain and outrage. Honestly, the intention behind the law was noble. It became a crucial weapon in the fight against domestic abuse².

¹ Rashid, M.A., 2022. *Towards Gender-Neutral Laws: Addressing Biases in the Indian Legal Framework*. Indian Journal of Law and Legal Research [online]. Available at: <https://www.ijllr.com/post/towards-gender-neutral-laws-addressing-biases-in-the-indian-legal-framework> (Accessed: 15 July 2025)

² Law Insider India, *Critical Study of 498A IPC* [online], n.d., Available at: <https://lawinsider.in/insight/critical-study-of-498a-ipc> (Accessed: 15 July 2025)

Over time, people started to notice that this law was getting misused. The Malimath Committee Report on Criminal Justice Reform called out this problem back in 2003 and recommended making Section 498A both compoundable and bailable. The Supreme Court in 2005 even called it "legal terrorism," making it clear how serious the issue was. The Law Commission of India jumped in the next year, backing changes to Section 498A so that the husband's family members wouldn't get arrested and harassed without a valid reason³.

Judges picked up on the growing problem in 2010 and 2012, which is when they advocated for action to address legal exploitation. And then came the important case of *Arnesh Kumar V. State of Bihar in 2014*. The Supreme Court instituted guidelines in order to avoid impetuous arrests in domestic disputes, rather than just recommending it. Everything changed. Police could no longer simply drag people in witlessly. Now, they must take a moment to look into the facts before making arrests⁹.

By the year 2018, finally, the conversation expanded to include the issue. It was in 2018 that people in Bengaluru had formulated their own "#MenToo" movement, and suddenly stories of men began to emerge: stories of pretexts for entrapment where the laws expanded to protect women, dowry laws for extortion, needless custody battle arrangements with all the odds stacked against them, and much more. These worries were not just confined to private conversations. Academics and the public began advocating for a more open discussion, expressing concern as to why men who were the victims of harassment (from laws) had no practical resources to act contrarily enough to not incur continued moral degradation⁴.

The National Commission for Men was demanded in 2023, for which a Public Interest Litigation was filed to protect men from injustice. The case landed in the Supreme Court, where the judges saw that there was a real need for gender-neutral laws and noticed how some people were misusing gender laws. Still, they decided not to set up the commission. Even so, the whole episode stirred up an old question: has the Indian legal system, while trying to protect women,

³ The Hindu, 2024. *The Malimath Committee's recommendations on reforms in the criminal justice system in 20 points* [online]. Available at:

<https://www.thehindu.com/news/national/the-malimath-committee-recommendations-on-reforms-in-the-criminal-justice-system-in-20-points/article61493071.ece> (Accessed: 16 July 2025).

⁴ International Business Times India, n.d. *After #MeToo, Bengaluru NGO starts #MenToo to speak out against women harassers* [online]. Available at: <https://www.ibtimes.co.in/after-metoo-bengaluru-ngo-starts-mentoo-speak-out-against-women-harassers-783662> (Accessed: 16 July 2025).

ended up leaving men without reliable ways to get justice?⁵.

When the Supreme Court dismissed a bunch of old Section 498A cases in 2024 and 2025—some dragging on for 26 years—they pointed to a lack of evidence and how the law keeps getting misused. That set off a fresh wave of debate. In one case, the Court really emphasized the need to update the law under the new Bharatiya Nyaya Sanhita. They argued that any changes should actually tackle how people are misusing it. Take Delhi, for example: the conviction rate for Section 498A cases there has dropped to just 0.2%. Nearly half of the cases don't even make it to judgment—they get quashed along the way. Investigative reports, like the one from the Times of India, have highlighted this trend. All of this has just added fuel to the argument that the law should be made compoundable, with tighter procedures to prevent abuse⁶.

In India, talk about men's rights has grown beyond a few legal debates. Now, people are pushing for gender-neutral laws on things like child custody, mental health, false accusations, and domestic violence against men. The way this conversation has shifted—from focusing mainly on protecting women to now highlighting the struggles men face—really shows that India needs a fair legal system, based on facts, and truly includes everyone.

The Way Forward

India needs a reform agenda that actually delivers gender equality in its legal system—one where men and women both get real protection and a fair chance at justice. The idea here isn't to take anything away from women, but to recognize where men are vulnerable too, all while sticking to the promises in Articles 14 and 21 of the Constitution.

You can see more and more lawyers, lawmakers, and activists agreeing: it's time to move on from gender-specific laws. Laws like the Protection of Women from Domestic Violence Act (PWDVA) and Section 498A of the IPC need updates so they treat everyone equally, no matter their gender. The Economic Times recently pointed out how these reforms are back in the spotlight, with people demanding gender-neutral laws and better ways to sort genuine cases

⁵ The Hindu, 2023, *SC refuses to entertain PIL for setting up of National Commission for Men* [online], 3 July, Available at: <https://www.thehindu.com/news/national/sc-refuses-to-entertain-pil-for-setting-up-of-national-commission-for-men/article67036752.ece> (Accessed: 16 July 2025).

⁶ The Times of India, 2025, *Debate over 498A misuse grows louder* [online], 15 June, Available at: <https://timesofindia.indiatimes.com/city/delhi/debate-over-498a-misuse-grows-louder/articleshow/121855255.cms> (Accessed: 16 July 2025).

from false ones. Legal experts keep stressing that the current setup just isn't fair. By assuming only men can be offenders, the law ends up ignoring male victims and goes against the basic promise of equality in the Constitution⁷.

Reform needs to focus on making the process fairer for everyone. That means things like holding mandatory preliminary inquiries before arresting someone for a non-bailable offense, giving strict penalties to people who file false complaints, and allowing some cases to be settled, with family welfare committees keeping an eye on things. Courts and experts keep pointing out how people abuse the system, turning it into a kind of "legal terrorism." These changes tackle that problem head-on³."

Right now, the system leans hard in favor of women. There's almost nothing in place for men—no National Commission, no dedicated government-funded counseling centers, no legal aid, not even emergency helplines. These are the kinds of changes we need to even things out. Actually, the Daily Excelsior just ran an editorial pointing out the same thing: men don't have this kind of support, and it's a gap that needs fixing⁵.

If legal reforms are going to work, people need to know about them—and that means training is key. Police officers and court staff have to understand that men can be victims too. When they get this, they can handle cases fairly and avoid falling back on old gender stereotypes. That's how men start to trust the legal system again.

Lately, the courts have been making some promising decisions. Take the Delhi High Court—they made it clear that men deserve just as much protection from cruelty and domestic abuse as anyone else. Decisions like this push things forward. They show that real change needs to come from a place of true equality, not just sympathy for one side. Public awareness campaigns have been led by a number of NGOs and advocacy groups, including the Men Welfare Trust and the Save Indian Family Foundation. To raise awareness of men's experiences with legal exploitation, they have organized symbolic protests like the Delhi Marathon demonstration and zero-waste courtroom training. These initiatives are essential for changing public opinion and

⁷ The Economic Times, n.d. *Legal experts flag gross misuse of domestic violence laws, call for gender-neutral legislation* [online]. Available at: <https://economictimes.indiatimes.com/news/india/legal-experts-flag-gross-misuse-of-domestic-violence-laws-call-for-gender-neutral-legislation/articleshow/116220540.cms> (Accessed: 17 July 2025).

increasing pressure for legal reform⁸.

Look at Europe, North America, and Oceania—they've already put gender-neutral domestic violence laws and fair family courts in place. These international standards give everyone else a solid roadmap for change. Indian legal reformers say following these examples keeps the country's promises on human rights and the constitution, all without taking away protections from people who need them most.

The Case Studies

For years, India's courts have grappled with the consequences of gender-based protection laws. These laws were supposed to protect women from abuse and inequality. Some people started gaming the system—especially with Section 498A of the Indian Penal Code, which was supposed to target cruelty in marriage. Judges observed and stepped in, trying to protect both the truly wronged and those unfairly accused, mostly men, through some landmark decisions.

In the case of “*Arnesh Kumar V. State of Bihar*” in 2014. The Supreme Court acknowledged that police kept making arrests under Section 498A without doing a proper investigation, and innocent people landed in jail. The judges said arrests can't be automatic. They pointed out how the law was being used to settle personal grudges in marriage disputes. From that point on, the police were required to follow Section 41 of the Code of Criminal Procedure and provide solid reasons for the arrest—especially in cases where the maximum sentence was seven years or less. That case set the tone for more careful, responsible action in 498A cases⁹.

In “*Preeti Gupta V. State of Jharkhand, 2010*,” the Supreme Court called out the growing habit of filing false complaints just to get back at family members. It wasn't just about husbands—people were dragging in distant relatives who had nothing to do with the dispute. The judges asked lawmakers to think about changing the law to protect innocent people from this kind of harassment¹⁰.

⁸ Men Welfare Trust, 2022, *Men Welfare Trusts Demands Gender Neutral Laws at DHM* [online], 16 October, Available at: <https://www.menwelfare.in/media/press-releases/press-release-men-welfare-trusts-demands-gender-neutral-laws-at-dhm/> (Accessed: 17 July 2025).

⁹ *Arnesh Kumar v. State of Bihar*, Criminal Appeal No. 1277 of 2014, decided on 2 July 2014, (2014) 8 SCC 273: AIR 2014 SC 2756.

¹⁰ *Preeti Gupta v. State of Jharkhand*, Criminal Appeal No. 1512 of 2010, decided on 13 August 2010, (2010) 7 SCC 667: AIR 2010 SC 3363.

In “*Sushil Kumar Sharma V. Union of India*” of 2005, the Supreme Court described the misuse of Section 498A as “legal terrorism.” The law itself was sound, the Court said, and women need protection. But when people abused this law, families broke apart, and innocent people went to prison. The judges made it clear: a law meant to protect shouldn’t become a weapon for exploitation¹¹.

In “*Rajesh Sharma V. State of Uttar Pradesh, 2017*,” the Supreme Court went further and set out specific steps to prevent abuse. They ordered every district to set up Family Welfare Committees. These committees had to check complaints under Section 498A before anyone could be arrested. The idea was simple: filter out fake cases early¹². Later on, another case—“*Social Action Forum for Manav Adhikar V. Union of India, 2018*”—changed some of these rules, but the message was the same: don’t let innocent people get dragged into serious criminal cases¹³.

All these cases add up to one thing. Yes, women absolutely need protection, and the Constitution demands it. Judges see the flip side, too. No one should have to pay for something they didn’t do. False accusations wreck lives, plain and simple. Worse, they make it harder for real victims to speak up and actually get help. That’s why judges and lawmakers keep looking for ways to make things fairer—smarter laws, better systems, anything that helps. When families end up in court, everyone deserves a fair chance at justice.

Conclusion

In India, when people bring up men’s rights now, they’re not really trying to put men and women on opposite sides. It’s more about wanting laws that treat everyone fairly. No one’s asking for men to be put above women, or to ignore the real protections women need. For instance, there should be justice that actually works, clear recognition from the system, and a place for everyone at the table. Currently, the debate shouldn’t be stuck on whether people misuse the law. The real question is, why hasn’t the legal system itself changed to actually handle abuse when it happens? Judges keep spotting cases where the process gets twisted, but lawmakers either ignore it or only play around the edges. The law needs to understand that

¹¹ *Sushil Kumar Sharma v. Union of India*, Writ Petition (Crl.) No. 141 of 2005, decided on 19 July 2005, (2005) 6 SCC 281: AIR 2005 SC 3100.

¹² *Rajesh Sharma v. State of Uttar Pradesh*, Criminal Appeal No. 1265 of 2017, decided on 27 July 2017, (2017) 8 SCC 746.

¹³ *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443: AIR 2018 SC 4273.

gender isn't simple anymore, and it has to stay ahead of the real world. This isn't about handing out more rights to men or taking them away from women. It's about getting rid of the idea that someone's gender decides if they're the victim or the innocent party. This means that everyone—society, police, lawyers, lawmakers—needs to start seeing justice differently. India doesn't just need a set of gender-neutral laws. It needs a legal system that's smart about gender—one that views vulnerability as a universal human trait, not just a characteristic of males or females. Protection shouldn't become a weapon. Fair justice isn't about moving from one extreme to another. It's about finding the balance between formal equality under law and substantive equality in lived experience. If the Indian legal system really wants to live up to the Constitution, it can't just be sensitive to gender—it has to be responsible about it. That means not picking sides, but standing up for real justice, every time¹.