
AN ANALYSIS OF THE MISUSE OF LAWS BY WOMEN

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ABSTRACT

India's history has long been marred by the ongoing challenge of gender inequality, a deeply rooted issue that has denied women the respect and dignity they deserve throughout the ages. India was a society where the rights of women were often disregarded and violated, reflecting a system that favored male dominance. In order to address this matter, several laws were implemented to safeguard women from various forms of mistreatment. Some of the relevant legislations are the Domestic Violence Act of 2005, the Maintenance Act, and Section 375 of the Indian Penal Code. These laws were created to protect women from different types of mistreatment, such as harassment, torture, divorce, rape, and other forms of injustice. Nevertheless, these laws also had unforeseen repercussions, as they were occasionally manipulated by certain individuals for their own benefit. There have been several instances where certain individuals have exploited these laws to falsely accuse others, resulting in the unfair conviction of innocent individuals. Furthermore, these laws exhibit a bias towards a specific gender, offering safeguards for women's rights while not affording the same level of protection to men's rights. It is unfortunate that individuals of all genders can be subjected to physical, emotional, and sexual violence. However, some men may feel hesitant to report such incidents due to their concerns about potential bias within the legal system. This paper delves into the gender-specific nature of these laws and the implications they hold for both men and women. Additionally, it offers recommendations on how to discourage the improper application of these laws by women and advance gender fairness in India.¹

¹ Solanki, Gopika, "Adjudication in Religious Family Laws: Cultural Accommodation, Legal Pluralism, and Gender Equality in India", Cambridge, UK: Cambridge University Press, (2011).

INTRODUCTION

It is evident that laws play a crucial role in maintaining order and ensuring justice within a society. However, when laws become excessively burdensome or show favoritism towards specific groups, they can result in unintended consequences and create new challenges. It is clear that certain laws in India are created to protect women from discrimination or sexual harassment. Despite the well-meaning intentions behind the implementation of these laws, they have regrettably been manipulated by certain individuals to make false accusations against men, leading to a heated national debate.

Throughout history, women in India have faced numerous challenges and disparities. However, there has been a noticeable shift in recent times towards providing women with increased opportunities and rights. The Constitution of India acknowledges the government's power to implement targeted measures aimed at promoting the advancement and well-being of women, as outlined in Article 15(3). However, it is crucial to acknowledge that the rights of men should not be disregarded or violated. When certain individuals misuse legal measures to unfairly target or manipulate others, it becomes essential for everyone to have access to legal remedies to safeguard their rights.

It is important to recognize that individuals of all genders can experience suffering and injustice within society. Individuals of any gender may also experience instances of mistreatment, aggression, or unfounded allegations. Therefore, it is unfair and illogical to make assumptions about the inherent strength of women and men. It is crucial for laws to be based on the principles of equality and impartiality, rather than being swayed by preconceived gender stereotypes. Having laws in place to protect every individual, regardless of their gender, is essential for the well-being and fairness of society.²

The Changing Status of Women in India: A Historical Overview

India is abundant in historical, cultural, and societal richness. The ever-changing status and position of women in India throughout history is truly fascinating and complex. Over the course of history, women have experienced various changes in their social, economic, and political statuses, shaped by factors like the time period, geographic location, and dominant ideologies.

² Kolsky, Elizabeth. "The Body Evidencing the Crime": Rape on Trial in Colonial India, 1860–1947." *Gender & History* 22.1 (2010): 109-130.

In this essay, I will provide a succinct overview of the important stages and factors that have shaped the status of women in India, covering ancient times to the present day.

In ancient times, women in India played a crucial role, especially during the Rigvedic period (1500-1000 BCE). Women were given the chance to participate in the study of the Vedas, the esteemed scriptures of Hinduism, and also actively participate in various religious rituals with their husbands. There were women, such as Ghosa and Apala, who excelled not only as poets but also as scholars, crafting hymns in the Vedas. Women had the opportunity to exercise their autonomy in choosing their life partners through a traditional practice called swayamvara, and had the right to inherit property from their fathers. Women were highly esteemed and revered as sacred beings or manifestations of authority.

However, during the later Vedic period (1000-500 BCE), the prominence of the caste system and patriarchal norms led to a gradual decline in the position of women. Women faced a notable decline in their rights and freedoms, leading to a state of subordination and reliance on their husbands or fathers. In the past, society had certain expectations for women, who were often seen as responsible for being loyal and respectful wives, prioritizing their husbands' needs and desires. In the past, the arrival of a daughter was frequently seen as a social obstacle, whereas the birth of a son was enthusiastically welcomed and commemorated. Education was denied to women, and the minimum age for marriage was reduced. In certain regions of India, there was a significant rise in child marriage, polygamy, and sati (the practice of widow immolation).

Throughout the post-Vedic period (500 BCE-1200 CE), numerous religious and philosophical movements arose, such as Buddhism, Jainism, and Hinduism. The movements had different viewpoints and impacts on the status of women. Both Buddhism and Jainism emphasized the importance of equality and liberation for all beings, providing women with the chance to join their monastic orders and pursue spiritual goals. However, women faced many obstacles and prejudices within these organizations, and had to prove their worth and capability. On the other hand, Hinduism laid down the laws and duties of women in the Manusmriti, a legal text attributed to Manu, the renowned lawgiver. The Manusmriti provides a comprehensive guide to the expected conduct and responsibilities of women throughout the various stages of life, including their roles as daughters, wives, mothers, and widows. The Manusmriti upheld a societal structure that favored men and created a hierarchy, leading to women being placed in a position of subordination and disadvantage.

India's history during the medieval period (1200-1750 CE) was marked by the invasion and rule of various foreign dynasties, such as the Delhi Sultanate and the Mughal Empire. The dynasties brought forth distinct cultural, religious, and administrative systems that greatly influenced the status of women in India. One of the remarkable effects involved the endorsement of art, literature, and education by specific rulers, such as Akbar and Nur Jahan, who also displayed a profound admiration for and empowerment of women within their courts and families. There were various negative outcomes that arose from the implementation of purdah, jauhar, and the unequal treatment and oppression of women from different religious and caste backgrounds.³

Throughout the modern period (1750-1947 CE), the British colonial rule in India came into existence and expanded. The British implemented their own set of laws, policies, and values, which had a multifaceted impact on the status of women in India. From an analytical standpoint, the British implemented a range of reforms and legislations with the objective of improving the status of women. These measures encompassed the banning of sati, child marriage, and female infanticide, along with the advancement of female education, widow remarriage, and women's rights. Nevertheless, women from lower castes and tribal communities in British-ruled India were subjected to violence, taxation, and displacement, highlighting the oppressive nature of their treatment. The British also depicted and distorted Indian women in various ways, either as alluring and sensual or as oppressed and backward. They employed these depictions to rationalize their mission of civilization.

The nationalist period (1857-1947 CE) was a pivotal time in Indian history, defined by a determined fight for independence from British colonial rule. In this era, a multitude of women leaders, activists, and revolutionaries emerged and actively worked towards India's independence and the empowerment of women. During this period, a number of prominent women figures rose to prominence, such as Rani Lakshmi Bai, Sarojini Naidu, Annie Besant, Kamala Nehru, Aruna Asaf Ali, and Bhikaji Cama. These women challenged the oppressive forces of colonialism and patriarchy, becoming a source of inspiration for numerous others to join their cause. However, the nationalist movement had some limitations and contradictions, as it often neglected women's issues and placed greater importance on traditional and conservative values associated with womanhood.⁴

³ Kasera, Pamini. "A historical analysis of rape laws in India." Available at SSRN 3619807 (2020).

⁴ Biswas, Bidisha. "From Mathura to Jyoti: Mapping public protests and anti-rape laws in India." *New feminisms in south Asia*. Routledge, 42-59 (2017).

The post-independence period (1947-present) reflects the continuous evolution of the status of women in India. In 1947, after India gained independence from the British, a constitution that embraced democracy and secularism was adopted. This constitution guaranteed equal rights and opportunities to all citizens, irrespective of their gender, religion, caste, or class. The constitution also provided the parliament with the power to implement targeted measures to protect and advance the welfare of women, as demonstrated by Article 15(3) and Article 16. To safeguard the dignity and status of women in Indian society, the government has put into effect a variety of laws and policies. “Some of the acts that are relevant to this discussion are the Special Marriage Act of 1956, the Hindu Marriage Act of 1955, the Prostitution Immoral Traffic Act of 1958, the Dowry Prohibition Act of 1961, the Domestic Violence Act of 2005, and a few more. These laws were implemented to tackle and combat different types of crimes and violence against women, such as rape, dowry, domestic abuse, female foeticide, and trafficking.”

However, despite the existence of these legal and constitutional provisions, the situation of women in India is still far from ideal. Women continue to face a multitude of challenges in various aspects of their lives, such as limited access to education, financial instability, joblessness, bias, mistreatment, and abuse. There is a noticeable imbalance when it comes to the representation and inclusion of women in decision-making and leadership roles, whether it be in the public or private sectors. There are various factors that contribute to the low status of women in India. These include a patriarchal and feudal mindset, caste and communal divisions, lack of awareness and education, corruption and inefficiency in the law enforcement and justice system, and the influence of the media and the market.

Therefore, it is evident that the status of women in India has undergone various changes and developments over time, influenced by a wide array of social, cultural, religious, and political factors. Women have played a crucial role in shaping the Indian civilization, making significant contributions to its development and progress. However, women have faced numerous challenges and injustices, frequently being denied their rightful and equal position in society. The ongoing pursuit of women's empowerment and liberation in India requires the collective efforts of different stakeholders, including the government, civil society, media, academia, and women themselves. We can truly realize the vision of a democratic and egalitarian society in

India by improving and enhancing the status of women.⁵

Instances of Women-Centric Laws Being Misused in India

Laws focused on women aim to protect and empower women by addressing various forms of violence, discrimination, and harassment. However, it is conceivable that some individuals may manipulate these laws by making inaccurate or exaggerated accusations against men, driven by personal motives or a thirst for retaliation. Here are two cases that illustrate this phenomenon:

1. “Sejalben Tejasbhai Chovatiya vs. State of Gujarat”

In this specific situation, the wife has made a formal request for financial assistance from her husband, explaining that she currently lacks any source of income. However, it was revealed during the court proceedings that she had a fixed deposit receipt that generated a substantial income, but she neglected to present it as evidence. The court charged her with perjury under section 195 and section 340 of the Code of Criminal Procedure (CrPC). The court acknowledged the possibility of misusing laws that provide advantages to women, highlighting cases of fabricated evidence, and ultimately rejected the wife's request.

2. “Arnesh Kumar vs. State of Bihar”

In this particular case, the wife has made accusations against her husband, mother-in-law, and father-in-law, stating that they requested a dowry of Rs 8 lac, a Maruti car, and an air conditioner. Additionally, she stated that her husband provided financial support to his parents in their dowry request. However, the court's findings indicated a lack of evidence to support her allegations, implying that she may have filed the lawsuit with the aim of causing distress and obtaining financial benefits from her spouse and his family. The court ruled in favor of dismissing the case and emphasized the importance of exercising caution when handling similar cases, advising both the police and magistrates accordingly.

The person states that they have encountered dowry harassment and were forced to leave their marital home. The defendant refutes these allegations and seeks anticipatory bail, which has been denied by both the High Court and the Sessions Court. He goes ahead and files a Special

⁵ Utsav Mukherjee, Comparison of Family Courts in India, USA and Australia. SSRN <http://ssrn.com/abstract=1112363>.

Leave Petition in the Supreme Court.⁶

Given the circumstances, the Supreme Court highlights the significance of police discretion in making arrests for offenses that result in a punishment of less than seven years of imprisonment. The court sets forth precise guidelines for the police to evaluate the necessity of making an arrest under “section 41 of CrPC”. The court has directed the judicial magistrate to thoroughly analyze the report provided by the police officer. This viewpoint is supported by numerous activists who advocate for men's rights.

3. “Vishnu Tiwari against the State of UP”

This case underscores the possible abuse of laws implemented to safeguard women. In 2001, Vishnu Tiwari was convicted of rape and subsequently sentenced to prison. However, after nearly 17 years, the Allahabad High Court concluded that the accusations against him were baseless and cleared him of all charges.

4. “Savitri Devi vs Ramesh Chand & Ors”

The court acknowledges the importance of laws that prioritize the well-being and safety of women, ensuring their rights are protected and they are shielded from harm. However, some people take advantage of these laws by involving the extended family members of their partner's family. Based on the evidence presented, the court has determined that it is crucial to hold the specific individuals accountable for acts of violence against women by their husbands or in-laws, rather than unfairly implicating the entire accused family.

5. “Rajesh Sharma and others against the State of Bihar”

The court has issued specific directions to address the issue of “misuse of Section 498-A of IPC”. A welfare committee will be set up in every district, comprising of para-legal volunteers, social workers, and officers' wives, as required by the court. When a complaint is received under section 498-A, the committee members thoroughly examine the case and prepare a comprehensive report for the authorities. The report is then presented to the judicial magistrate, who offers a thorough analysis of the case based on their expertise.

⁶ Garg, Arushi. “Consent, conjugality and crime: hegemonic constructions of rape laws in India.” *Social & Legal Studies* 28.6 (2019): 737-754.

LAWS WHICH ARE MISUSED

Several laws have been implemented to protect the rights of women in society, in accordance with “Article 15(3) of the Indian Constitution”, which empowers the Parliament to establish specific provisions for women. However, some people have taken advantage of these laws for their own benefit. These are the laws that are often misunderstood.

“The Domestic Violence Act of 2005: The Domestic Violence Act” is a civil law that was enacted in 2005 to provide support to women who have experienced victimization. The Act aimed to protect women from any type of violence perpetrated by their spouses or relatives during their marriage. The Act has brought justice to countless married women. Nevertheless, there have been instances where some individuals have abused this Act by making false allegations of domestic violence against their husbands and families, resulting in damage to their reputation. The women filed false claims for different reasons, like suspected unfaithfulness or disputes over property. While these laws play a vital role in safeguarding women, it is worth recognizing that there have been cases where some women have posed challenges for innocent men. Unfounded allegations can severely damage a person's standing in the community, and in certain instances, it can even lead to unemployment.⁷

“Section 498-A of the Indian Penal Code: Section 498 of the Indian Penal Code” outlines the legal definition of Cruelty and aims to safeguard wives from any kind of mistreatment inflicted by their husbands or their relatives. This section was added to IPC to provide assistance to the wives in addressing the problem of dowry deaths. This section focuses solely on providing solutions for wives, while overlooking the needs of husbands. This section was established to safeguard married women from cruelty and abuse within their matrimonial homes. However, some individuals have exploited this provision by making baseless accusations of violence against their spouses or relatives, driven by motives such as seeking revenge, financial benefits, or causing distress. There have been concerns raised about the credibility of this section, as the number of acquittals has exceeded the number of convictions. The misuse of section 498-A undermines its original purpose and credibility. The section should aim for objectivity by taking into account the experiences of both genders, recognizing that men can also be victims of cruelty in their marriages.⁸

⁷ Dhonchak, Anupriya. “Standard of Consent in Rape Law in India: Towards an Affirmative Standard.” *Berkeley J. Gender L. & Just.* 34 (2019): 29.

⁸ Gangoli, Geetanjali, and Nicole Westmarland. “International approaches to rape.” Policy Press, (2011).

“Section 375 of the Indian Penal Code addresses the offense of rape”. This section offers a clear definition of rape, which involves engaging in sexual intercourse with a woman without her consent or by using force. This section is of utmost importance in ensuring the protection of women's dignity and rights, while also acknowledging the need to prevent false accusations of rape. Some people have used this section to harm others' reputations or exploit them for financial gain, without offering any supporting evidence. Furthermore, this section could benefit from a more inclusive approach, acknowledging that sexual violence can affect individuals of all genders, including men and transgender individuals. Ensuring a fair opportunity for individuals accused of rape to present their defense is of utmost importance. When dealing with such delicate matters, it is of utmost importance for the court to carry out comprehensive tests and examinations prior to making any conclusions, given the substantial consequences it may have on the accused's life and reputation. A notable instance is the “Vishnu Tiwari vs. the State of UP case, where Vishnu Tiwari” was wrongly found guilty of rape and suffered nearly 17 years of imprisonment before eventually being acquitted.

“Ensuring Workplace Safety for Women through The Sexual Harassment Act”: This act aims to create a work environment that emphasizes the safety and respect of women, who may unfortunately face harassment or discrimination from their colleagues or superiors. However, some individuals have taken advantage of this act by making unfounded accusations of molestation or abuse against men, causing substantial damage to their professional reputation and public perception.

“The Hindu Adoption and Maintenance Act: Securing Alimony Rights for Divorced Women. This legislation allows divorced women to pursue financial support and alimony from their ex-partners. However, some people have taken advantage of this act to separate from their spouses for insignificant reasons and demand excessive alimony payments.”

Suggestions

The laws that benefit women should be carefully examined and revised to better reflect the changing needs of society. It is crucial to consider the unique needs of women, while also ensuring that the rights and safety of innocent men are not compromised. It is important for the laws to consider the concerns of individuals of all genders who face abuse and discrimination. It is crucial to ensure that the current laws, which aim to safeguard women, also provide equal protection for men. For instance, it is crucial to guarantee that the “Domestic Violence Act” is comprehensive and encompasses all individuals, irrespective of their gender. It is important to

hold accountable those who take advantage of the laws. It is crucial to establish laws that prioritize fairness and impartiality, guaranteeing equal treatment for individuals of all genders.

Conclusion

Examining the misapplication of laws designed to safeguard women from violence and discrimination is a matter of utmost significance that demands the attention of the authorities. While acknowledging the continued importance of these laws in addressing the pressing issues faced by women, such as dowry deaths, rapes, or domestic violence, it is crucial to maintain a fair balance to prevent any potential misuse that may lead to false accusations or harassment of men. It is crucial to guarantee that the women in genuine need of protection are not overshadowed by those who take advantage of the laws.⁹

Ensuring equal protection for the rights of both men and women who experience abuse and harassment is of utmost importance. It is crucial to guarantee that laws that currently prioritize women do not have any adverse impact on innocent individuals. Unfounded accusations made by certain individuals can have serious consequences for men, such as suicide, imprisonment, and harm to their reputation. Some people may also face serious charges that cannot be bailed out, causing significant hardship for those who are innocent. The notion that men possess greater physical strength than women is outdated and inaccurate. One baseless accusation can have a profound impact on someone's life. Therefore, it is crucial to establish laws that protect the rights of individuals in society. Women have made remarkable progress in society, achieving empowerment and seizing opportunities in diverse fields. It is essential to emphasize the importance of promoting the empowerment of men in society, ensuring that laws are not misused against them by any individual.

“Article 14 of the Indian Constitution” guarantees the impartial and equitable treatment of all individuals in accordance with the law. Nevertheless, the reality is quite distinct. Several laws, including “Article 15(3) of the Indian Constitution” and acts like the “Dowry Prohibition Act” or the “Domestic Violence Act”, seem to exhibit a preference towards women. It is perplexing how society often overlooks the mental and emotional challenges faced by men. Developing legislation that specifically focuses on women is not an equitable reflection of justice. In order to promote a fair and equitable society, it is crucial for legislators to thoroughly examine and adjust current laws or propose new legislation as needed. It is important to note that the roles

⁹ Jiloha, R. C. “Rape: Legal issues in mental health perspective.” *Indian journal of psychiatry* 55.3 (2013): 250-255.

of victims and perpetrators are not solely determined by gender, despite common misconceptions. In today's society, it is important to recognize that both men and women can find themselves in vulnerable positions and can also be responsible for certain actions. Because of these laws and the prevailing perception that women are frequently victims, judges frequently encounter difficulties in making unbiased judgments, leading to a tendency to show favoritism towards women. In order to ensure fairness and justice, it is essential to approach allegations made by women against men with a dedication to meticulous investigation rather than solely relying on unquestioning belief.