
WEAPONISATION OF PROTECTIVE LAWS: A CRITICAL STUDY OF LOOPHOLES IN WOMEN-CENTRIC LEGISLATION

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ABSTRACT

The women-centric laws that have been formulated in India have been done so with the intention of protecting women from violence, abuse, and discrimination. Such laws have been a step in the right direction in terms of gender justice. However, in recent times, there have been concerns that have been raised with regard to the misuse of women-centric laws. It is also argued that there have been certain individuals who have used these laws for their own benefit in resolving personal issues or pressurizing their spouse. Such issues have also raised concerns with regard to justice, fairness, and the rights of the accused. The aim of this research paper is to critically evaluate the loopholes that have been created in women-centric laws in India. It also aims at assessing how protective laws have been misused. The paper also aims at assessing whether there is any necessity for women-centric laws. Moreover, it also aims at assessing what impact it could have on individuals if there is any misuse of laws. The research concludes that balanced reforms are required to preserve the protective intent of these laws without promoting their misuse. Reforms in this context are expected to focus on procedural aspects, accountability, and judicial oversight to ensure fair play and justice for all.

Keywords: Women-centric laws, misuse of legal provisions, gender justice, Section 498A IPC, domestic violence law, false allegations, legal loopholes, matrimonial disputes, judicial safeguards, criminal justice reform.

Introduction

The formulation of women-centric laws in India can be regarded as an important landmark in the journey towards the achievement of gender equality and social justice in Indian society. The women in Indian society have been subjected to a lot of issues in life. The issues that the women in the country have been subjected to in life include harassment in the name of dowry, violence in the home, sexual assault, harassment of women in the workplace, etc. It is in this context that it is pertinent to note that the legislature in the country has framed numerous laws that are aimed at protecting and safeguarding the dignity and equality of women in the country. It is in this context that it is pertinent to note that numerous laws, including Section 498A of the Indian

Penal Code, the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at the Workplace Act, 2013, have been framed to address the issues of violence against women in the country. These laws were designed not only to punish offenders but also to create deterrence and empower women to assert their rights.

All these steps of the law have over the years played a significant role in bringing to the forefront those issues which otherwise remained in the realm of the personal and beyond the reach of the law. For example, domestic violence has always been regarded as a personal issue that is beyond the reach of the law. However, with the intervention of the law in this regard, such activities have come to be made accountable. The issue of harassment in the workplace, which otherwise remained ignored in fear of retaliation, came to be recognized as a serious violation of the fundamental rights of the individual. All these factors indicate the progressive approach that the law in India has adopted in dealing with the issue of gender injustice. However, simultaneously, the possibility of the law being misused has also come to be recognized.

The debate surrounding the misuse centers around the contention that some women-centric legislation, especially those related to marital disputes, are being misused to settle personal scores or pressure the opposite party during the course of divorce (**Savitri Devi v Ramesh Chand & Ors** 2003). It has been contended that the wide definition and stringent provisions, including arrest at the earliest, are being misused. There are allegations that false charges are being leveled, which is leading to legal harassment of the accused and their families. This has led to the apprehension that the due process is being violated and the whole concept of fairness in the criminal justice system is being undermined. (**Sushil Kumar Sharma v. Union of India**

2005)

At the same time, it is also important to note that the misuse of law is not exclusive to women-centric laws. All laws have the potential to be misused in some way, but this does not diminish the importance of such laws. It has also been pointed out by several scholars that over-emphasis on the misuse of such laws can undermine the genuine victims of such crimes, which can affect the reporting of genuine cases of violence. It is also to be noted that a lower rate of convictions does not necessarily mean that there was false reporting, as there could be several reasons for such cases remaining pending.

The main objective of this research paper is to critically analyze the weaponization of protective laws in India. In other words, it is an attempt to analyze the existing women-centric laws in India, their loopholes which may lead to misuse, and judicial responses to these concerns. In addition, it is an attempt to examine the consequences of such misuse. A balanced approach is being adopted in this research paper to highlight the importance of protective laws and the need to prevent their misuse. In other words, it is an attempt to highlight the importance of reforms in this area.

Research Methodology

The methodology that would be used in conducting the research is a combination of both the doctrinal research methodology and the analytical research methodology. The primary source of information that would be used in conducting the research is secondary data. Secondary data includes all kinds of legal provisions, case laws, articles, commentaries, etc. Relevant case laws would be analyzed in order to assess the framework of women-centric laws in the country. The research would also include a comparative analysis of various legal provisions in order to assess loopholes in laws that could be misused. Moreover, the research would also include an analysis of various academic literature in order to provide a comprehensive understanding of the issue from a sociological point of view. The use of the doctrinal research methodology would allow for an in-depth analysis of legal provisions, whereas the analytical methodology would allow for an assessment of legal provisions.

Research Gap

Literature available on the subject of women-centric laws in India primarily highlights the role

of these laws in empowering women and combating gender-based crimes. Although there are a number of studies that have effectively proved the efficacy of these laws in offering a protective shield, there are few studies that critically discuss the issue of misuse and its implications for the criminal justice system. In fact, most of the discussions on the issue of misuse are not backed by comprehensive legal analysis. Secondly, there are few studies that have effectively discussed the issue of the need for protective laws and, at the same time, the need for procedural safeguards against misuse. Another important area that this study hopes to cover, and which has not yet been effectively explored, is the need for a balanced study that also involves a discussion from the judicial, legislative, and socio-legal perspectives.

Legal Framework for Protection of Women in India

India has developed several laws that seek to prevent the various forms of abuse that women suffer. The most important law in this regard is the provision under Section 498A of the IPC, which criminalizes cruelty against married women by the husband and his family. The law was enacted in 1983 with the objective of preventing dowry related crimes and domestic violence. The law is cognizable and non-bailable in nature, which indicates the seriousness with which the law was enacted to deal with the problem. The wide scope of cruelty encompasses both mental and physical suffering, which provides flexibility but also creates interpretational challenges.

Another major legislation is the Protection of Women from **Domestic Violence Act, 2005**. This is different from other laws in that it offers civil relief in the form of protection orders, accommodation, and maintenance. It covers all forms of physical, mental, verbal, and economic abuse and hence enlarges the meaning of domestic violence. It has also been suggested that there is a shift from punitive justice to restorative. However, the broad definitions in the laws have also come under criticism that they might be misused. Moreover, the **Dowry Prohibition Act of 1961** deals with the punishment of giving and receiving dowry. However, it is observed that the giving and receiving of dowry is still prevalent, and instances of crime in this regard are also reported. Therefore, in this chapter, provisions related to giving and receiving dowry have also been strengthened. Moreover, in the Indian Penal Code, **Section 376** deals with the punishment of the offense of rape. The provisions related to the offense of rape have undergone many amendments to include the scope of sexual assault and provide a safe and secure environment to the victims of sexual offenses. These laws collectively form a comprehensive

framework for women's protection. However, their implementation and interpretation have led to concerns about misuse, especially in matrimonial disputes and workplace conflicts

Misuse of Women-Centric Laws

While protective laws are essential, the misuse of these laws has become an area of legal and academic debate. There have been suggestions that some of the provisions, in particular the provision under Section 498A of the IPC, are misused to settle scores or gain an advantage in divorce proceedings. Research has suggested that in some cases, the whole family, including distant relatives, are implicated without evidence. Such concerns were recognized by the Supreme Court, which also emphasized that arrests should not be automatic in matrimonial cases (**Arnesh 2014**). The Supreme Court emphasized that appropriate investigations should be conducted. This judgment was intended to prevent harassment without undermining the deterrent effect of the law. The misuse of allegations can also be seen in cases of workplace harassment. These allegations can arise due to professional differences. These cases are limited in number in comparison to genuine cases. It is also recognized, though, that misuse allegations should not dominate the debate to such an extent that they discourage people from reporting harassment.

Laws Which Are Misused

There are various laws which were once framed for the protection of the rights of women in society. These laws were framed by considering **Article 15(3)** of the Indian constitution, which gives power to the parliament to make special provisions for the protection of women's rights. However, the very essence of these laws has been destroyed by the misuse of these laws by women. The laws which are being misused are as follows:

1. Protection of Women from Domestic Violence Act, 2005: The Act provides civil remedies including residence orders, protection orders, and monetary relief. Although it is imperative that the Act protects the rights of victims of domestic abuse, it has also been argued that it is at times misused in divorce cases in order to claim residence and financial benefits. The courts have also noted that making false claims without supporting evidence leads to undue litigation and hardship for the accused. However, it has also been noted that instances like these should not undermine the purpose and spirit of the legislation. (SEEMA NAGAR 2025)

2. Dowry Prohibition Act, 1961: which aims at eliminating the social evil of dowry, has also been referred to in the context of its possible abuse. At times, in marital disputes, the issue of dowry demand is referred to when the conflict between the couple escalates, especially in divorce cases. It has been seen in some cases that the couple has arrived at a settlement in terms of money even when the case has been referred to the court, indicating that the case has been referred to the court with the intention of settling the case through criminal prosecution. However, the courts have been emphasising that genuine cases must not be undermined, and each case must be considered separately (**Dua Jasleen & R. Kahlon Neena, 2019**). The **Nisha Sharma dowry case 2003** was a landmark Indian legal case where Noida resident Nisha Sharma accused her groom, Munish Dalal, of demanding ₹12 lakh in dowry, making her an national anti-dowry icon. However, after nine years of litigation, the district court acquitted all accused in 2012 due to lack of evidence, concluding the charges were fabricated to avoid the marriage.

3. Section 498A of the Indian Penal Code: Section 498-A of the Indian Penal Code defines the term ‘Cruelty’ and also protects the wife from any kind of cruelty against her husband or the relatives of the husband of the woman. This section was added in the IPC so that the wives could deal with the threats of dowry deaths. This section only involves the remedy for the wives and not the husbands. The enforcement of this section was a necessity because a part of the married woman was suffering cruelty in their married lives. But now this section is not being used by the women for their own protection but is being used to seek revenge against their own husbands, to demand money from them, or simply to inflict pain on them. The women were making false accusations against their own husbands. When cross-investigation was held to prove the authenticity of this section, it was found that the number of acquittals was more than the number of convictions. The misuse of section 498-A diminishes the credibility of this section. The section should not be totally convenient for the women but should also involve the term ‘men’ within it, because now it’s only the women who are suffering cruelty in their married homes but the number of men suffering cruelty is more than the women. The law is widely applicable and can result in harassment of innocent people (**Mayank Mani 2021**). The judiciary has played a crucial role in addressing misuse concerns. In **Sushil Kumar Sharma v. Union of India**, the Supreme Court recognized that Section 498A IPC could be misused but held that this does not justify striking down the provision. The Court emphasized that misuse of law is not a ground for invalidation and highlighted the need for safeguards. This balanced approach acknowledges both the necessity of the law and the potential for abuse.

4. Section 375 of Indian Penal Code: It defines the offense of rape, establishing that a man commits rape if he has sexual intercourse with a woman against her will, without her consent, or by coercion/fraud. This is a much-needed law that aims at protecting the dignity of women. This law does not mean that women can falsely accuse men of rape. Not any woman but a high percentage of women, with the intention of destroying the reputation of men in society or demanding money from them, falsely accuses men of rape. Furthermore, section 375 of the IPC can also be said to be gender-biased because not only women but also men and transgender can be victims of rape. The person who is accused of rape must be given an equal chance to be heard, and then only the court must go by various tests before passing any judgment on such sensitive cases because it is related to the whole life of men. In the case of **Uday v. State of Karnataka**, the Supreme Court dealt with the issues that occurred in the context of the relationship in which the consent was provided in return for the promise of marriage. The court held that if the promise was made with dishonest intent and was untrue, it could be rape. However, if the relationship was consensual and the promise was not fulfilled, it may not be rape.

5. Sexual Harassment of Women at Workplace Act 2013: This is a landmark Indian law enacted to safeguard women from sexual harassment in professional environments. Commonly known as the POSH Act, it codified the **1997 Vishakha guidelines** into statutory law, establishing a comprehensive system for prevention and redressal of workplace sexual harassment. Although the law is essential in ensuring that workplaces are safe, there have also been claims that complaints could sometimes be raised in connection with professional conflicts or disciplinary measures. However, in such instances, the inquiry system is established to evaluate the evidence objectively and ensure fairness to all parties involved.

These examples show that abuse is often present when laws are raised not only in the context of protection but also as instruments in personal or professional battles. The courts have repeatedly made it clear that although such instances exist, they do not detract from the significance of these laws but rather highlight the significance of procedural safeguards and judicial intervention to guard against abuse and protect true victims.

Loopholes in Women-Centric Laws

There are several loopholes in the law that raise concerns about misuse. Firstly, there is no requirement of any investigation before the registration of FIRs. This can result in arrests

without any investigation. Secondly, the definition of cruelty in Section 498A IPC is wide, which can be subject to interpretation. Though flexibility in law is necessary, it can also lead to misuse of the law. The absence of strict penalties for false complaints is another concern. Although legal provisions exist for perjury and malicious prosecution, they are rarely invoked. This reduces accountability. Additionally, social stigma and fear of arrest can pressure accused individuals into settlements. Scholars argue that procedural reforms are necessary to address these loopholes (**Arnesh Kumar v. State of Bihar (2014)**)

Critical Analysis

It is also essential that the debate over the misuse of such laws considers both sides of the argument. One side of the argument is that, indeed, such protective laws are essential in dealing with systemic violence. There is also the aspect of underreporting, and such laws can serve as a deterrent. However, the other side of the argument is that, in the process of misuse, an innocent person may also be harmed. Reforms are essential in the case of dealing with the issue of misuse. There are some measures that can be put in place, such as preliminary inquiry and judicial oversight (**Vivek Kumar Maurya v. State of U.P. & Ors., 2023**) These measures can be helpful in reducing the chances of misuse. It is essential that there be a balance between the effectiveness of the protective measures and the chances of misuse.

SUGGESTIONS:

The laws that are in favor of women need to be properly examined and then amended as required by society. There is a need for special provisions to be made for the protection of women. However, it is also important that the laws that are framed for the protection of women should not put the lives of innocent men in danger. The rights of both men and women need to be protected and consideration should be given to that. The laws that are presently framed for women need to include men too. For instance, the Domestic Violence Act should include the male generation too. The women who abuse the laws need to be severely punished. Imposition of stringent consequences against false complaints may make people more accountable. There is a need for gender-neutral laws and not male or female oriented. Gender-neutral provisions may guarantee equality between the sexes. Reforms should be made in procedural aspects. Mandatory preliminary inquiry prior to arrest may prevent misuse of the code. Mediation in matrimonial disputes may reduce the number of litigations. Such steps may strengthen the legal system (**Zaid Ali 2025**)

Conclusion

Women-centric legislation has been brought in India to deal with the social problems that women are facing in the country, which include domestic violence, dowry demands, and sexual assaults. This legislation has been very important in the country in providing women with the opportunity to get justice against the crimes they are subjected to. However, the research has shown that there are some provisions that are so widely framed and strict in nature that they are being misused in the country, which include cases of exaggerated charges, false dowry cases for settlement, and criminal charges related to failed relationships.

At the same time, misuse represents only a small proportion of cases and should not overshadow the continued need for strong legal safeguards for women. Many women still face serious forms of violence and harassment, and weakening these laws would undermine their protection. Therefore, the focus should be on ensuring balanced implementation rather than removing protective provisions. Fair investigation, careful judicial scrutiny, and adherence to evidentiary standards are essential to prevent wrongful implication while protecting genuine victims.

The importance of equality in front of law is also highlighted in this study. The false cases may cause serious harm to the reputation of the accused, may cause problems of mental and financial issues, etc. These are some of the consequences of false cases, which show the importance of these measures. These measures do not in any way affect the main purpose of such legislation

It is quite clear from the above discussion that though it is essential to have women-centric laws, it is also equally essential to have them in balance. The balanced approach in dealing with laws will definitely help in boosting the morale of the people and will serve justice in an unbiased manner.

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