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The Legal and Social Challenges faced by Men in India: A Detailed Analysis

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The following research paper explores various concepts such as the rights of men in India, the issues that need to be addressed, and the rape laws for men in India. For a long time this topic was not regarded as important to be discussed but in the present time keeping in view the mental health issues they go through, the societal norms & pressure they face, this research paper has tried to address each aspect. The paper also tries to provide certain suggestions that if taken into account may result in a better society where we live.

Keywords: *power, authoritarian, gender neutral law, domestic violence, harassment.*

INTRODUCTION

There is a strong link between mental health and other aspects of health and development. A broader, more holistic approach is required to address the social and structural risk factors that drive mental illnesses, in addition to identifying and treating them. Overly medicalized and institutionalized mental health systems require reform, and people who have lived with mental illness must have a stronger voice in their personal recovery as well as the policies and practices that affect them. Building a more inclusive society for people with mental illnesses

and psychosocial disabilities may appear to be a daunting task, but there are numerous practical steps that policymakers and practitioners can take to start moving in the right direction. The right to Equality has been granted to every citizen of India irrespective of their caste, creed, religion, and sex. India is one of the best examples of living democracy in the world. In recent times, much social and economic development has been seen, yet there is the existence of poverty and violence in relation to religion and caste.

RESEARCH METHODOLOGY

Accepting that there is no concrete way of knowing the exact number of wrongful convictions, as well as the lack of a control point or methodology that can gauge and provide the exact number and establish a defined approach, the reliance on a collection of data points as a source, has primarily been on websites, blogs, research papers, articles, and annual/periodic reports published by the government as well as websites of various governmental as well as credible non-governmental organizations

REVIEW OF LITERATURE

This paper tries to analyse and study various aspects that the men community faces. The emotional and physiological roller coaster they go through does not showcase to anyone in their family or in society. We shall also be studying the Rape laws and the provision in that regard. The problem they face most importantly in the current times where there are a lot of false allegations against them. We shall be sealed with all such issues.

Recently, the honorable Supreme Court has identified men in the community as victims in cases of domestic violence. However, the judges did not deem the laws gender-neutral. It was stated that women are filing false and inaccurate claims against men, particularly in cases of domestic violence. The reason behind such complaints may be trivial fights between the spouses. The women may not be considering the implication and consequences that may arise after they had filed a suit against their husbands. Even if women were not happy with the judgement by the SC as it focused on saving marriage relationships and not prioritizing women's rights, it may be argued that in modern times women face severe mental, physical

and domestic violence, which is not false. But due to the extensive wide coverage of some of the acts such as the domestic violence act, and anti-dowry act, they are utilizing it in a wrong manner and that damages the reputation of the male spouse in the society where he lives. Human beings, irrespective of being women or men, are violent and aggressive. Study in the field of domestic violence has shown that men and women act violently in a relationship. They are also equally likely to instigate violence against one another. For instance, the bibliographic study by *Fierbert* in the year 2007 shows that women are more physically aggressive and violent than their male counterparts. Society has also played a huge role in this matter. Men were regarded as the symbol of power, and aggression and women were on the end of receiving such oppression. Women silently suffered from all sorts of violence. So, when the case turned over i.e. when there was the instigation of violence by women against men it was considered a threat to the men community, to their superiority and masculinity. As a result, we can see that men report their spouse's violence in private and they hardly ever report it in public. The trend can be seen to increase with more economic independence given to women and the change in power dynamics.

The relationship in the present time and upcoming years may be affected, where men would be in the fear of losing power and women may be excited by the empowerment that would be vested upon them. If we see the history of the case, we can decipher that women were considered inferior and men were considered superior. Men ought to represent aggression and women were to represent suffering from that aggression. Violence against men is not considered serious due to different ways of thinking. The reason can be women use more mental, verbal, and emotional abuse against their counterpart, who uses physical violence as a way to abuse. It is also considered less apparent and hence it doesn't come into the main focus. But the fact that some men are oversensitive to emotional and psychological abuse should be taken into account. For instance, if a woman abuses her husband in front of an audience, it may be more devastating and brutal than physical abuse being inflicted upon them. Though women are regarded to be more sensitive and emotional, what matters hurts a man mentally as well as emotionally varies from case to case. If we take the example of a man being called a coward, not having enough potential, or failure in terms of not being able to take care of his

family, that may have a more serious impact on the emotional state of the men than women. From the above line, it can be deciphered that unkind and brutal words can have a serious impact on the psychology of a human being. In current times it can be seen that a man is more deeply affected by emotional abuse than physical abuse. In 1988, The Indian men's rights movement was started by an advocate of the Supreme Court named Ram Prakash Chugh in order to deal with the psychological abuse that men suffer due to the false claims on behalf of women giving reasons of dowry harassment. Later on, the movement came to be known as "*The society for the prevention of cruelty to Husbands*" In 1983, the dowry law was framed which is under Section 498A of IPC ¹which provides protection to women from harassment, abuse, and violence in the matter of the bride's family not providing sufficient dowry. So this provision gives power to the police to arrest the husband and his family member accused of committing the crimes that are related to dowry. MRA observed that the acts that provide protection to women can be misused by them. So the Supreme Court in the year 2014 viewed this matter and removed the provision of automatic arrest, in order to protect the men against 'disgruntled wives'

There is no law for the protection of men from women against false allegations being filed, even though it may be suggested that there should be laws for the protection of men in the context of domestic violence and sexual harassment. One way to prevent the false cases is by working rigorously towards the prosecution of the false cases and it may also involve the wrong investigation done by the police. Generally, when a law favors women, there need not be any trial or asking the parties to provide evidence, to conduct cross-examinations. Simply the husband is deemed to be guilty and is punished for the term of years as prescribed by the rule. Even though single evidence has not been provided by the party that claims the law to be in favor of the women. So for the rescue of men, they would be well aware of the Indian Evidence Act. In the courtrooms, the evidence irrespective of being a documentary or a statement by the witness is all that matters for the final decision in the Court. The problem being the general public doesn't have much idea about the idea of evidence. Even lawyers fail to differentiate between good evidence and bad evidence. There is a lack of understanding and

¹ Indian Penal Code, 1860, s 498A

hence are not able to collect, submit and apply the evidence at the right time and in the right place. Strong evidence can be regarded to be photocopies of any document, audio recordings, etc. There is another lacuna i.e. the police station often doesn't register the complaint being made by men and even if they are registered no action is taken for a longer period of time. There is some misandry that stops the men from pointing out that a woman is guilty. At the current time, there is a need to do research and literature on men in India. We can take the instance of the statement from the ministry of women and child development where Ms. Maneka Gandhi made the statement that all violence that is being created is male generated. Such sexist and discriminatory thought implies the reasons why there are no laws for men who face violence from their spouses. But there are some NGOs that work for the betterment of men; in Mumbai, Vaastav is an NGO opened in the year 2013 for the different men's rights groups. Another group is MASHAAL (Mothers and Sisters Of Husbands Against Abuse of Law). Even though Vaastav is for the men's rights group, certain women groups such as the All India Mother-in-law protection forum, in which the women who are jailed for filing false dowry cases, and harassment cases don't have any escape.

Over the span of years, various High courts and even the Supreme court have regarded Section 498A as being the most abused law in the history of jurisprudence. At the current time, there is a steady increase in the rate of divorce cases, and in addition to that, some women and lawyers are misusing the law by filing false petitions against their husbands and relatives. The National Commission for Women also expressed their deep concern regarding this matter. In the case of *Narendra v K. Meena* (2016),² the Supreme Court gave the judgment that if there is coercion or use of force upon the husband to leave his parents (being dependent on his income) amounts to cruelty on behalf of the wife. Therefore this can be regarded as a strong ground for divorce under Hindu law. In the case of *Raj Talreja v Kavita Talreja* (2017),³ false allegations were made by the wife against the husband. The court held this amounts to mental cruelty and can be regarded as a ground for divorce. Every year on the 19th of November International Men's day falls. Though it has not gained as much visibility as women's day has

² *Narendra v K. Meena* (2016) 9 SCC 455

³ *Raj Talreja v Kavita Talreja* (2017) 358 SC

gotten yet its significance is growing over the years. Though there is a UN commission on women's rights, there has not been any establishment of a men's commission. There can be a list of problems that they face and that afflict them such as the lack of resources in favour of male victims in case of domestic violence, the male suicide epidemic, and so on. The underlying problem is that of acceptance of the issues that men face and this is the result of the absence of male advocates who have a broad view of taking such cases. Even at the National level or state level, there is no male advocacy group that can support this cause and takes the right steps in this regard. Another shocking news is that teenage boys are being assaulted in detention centers. Earlier girls were being assaulted and even now the rate has not decreased. Though certain acts have been passed in order to safeguard the girls from being sexually assaulted now the boys are not an excuse

Rape is defined in Section 375⁴ of the Indian Penal Code (IPC) as "the act of sex by a man with a woman if done against her will or without her consent." When a woman is under the age of 18, having sex with or without her consent is considered rape. If the woman is married to the man, whether he has her consent or not, the act is not considered rape. Rape is a crime that is frequently associated with the concept of power and dominance. Because the IPC defines rape as a crime committed by men, it is impossible to report rape against men. This concept is based on the patriarchal notion that "men enjoy sex" and "they cannot be raped," which is extremely problematic. The notion that men do not get raped stems from the toxic masculinity that pervades our society. This is the mindset that keeps men from expressing their emotions. It essentially convinces them that they must 'enjoy' any sexual advances made toward them. That is one of the reasons why many male sexual abuse victims remain silent. It is true that men commit more sexual assaults than women. However, this does not mean that men are never raped. More people are speaking up about young men being raped or assaulted as people's knowledge and understanding grow. This amendment will ensure that people are aware that men are raped as well, resulting in a societal shift. When it calls for a gender-neutral section that punishes any form of sexual assault, the Criminal Law (Amendment) Bill, 2019, aims to make such progress. In today's society, the need for Gender Neutral Rape laws

⁴ Indian Penal Code, 1860, s 375

has become urgent. Criminal laws in India have been frequently amended over the years to match the needs of the time. The new rules in the sphere of sexual offences against women enacted in the aftermath of the Nirbhaya incident have made a significant contribution to women's rights. It recognized a variety of crimes that were not prior offences, allowing each victim access to the courts. Even after the Supreme Court deemed Section 377⁵ illegal, some crucial points remained unaddressed. While legalizing consensual gay sex, the Supreme Court failed to detect a loophole in Section 375 of the Indian Penal Code, which accepts females as victims and males as the perpetrator. As a result, when both the victim and the perpetrator are male or female, there is a legal gap in this section. Even the Supreme Court refuses to hear petitions calling for gender-neutral rape laws, noting that lawmakers will look into the matter. Due to the lack of gender-neutral regulations, most crimes go unreported or the criminal receives a minor penalty. Even the majority of feminist organizations are opposed to the proposal for gender-neutral laws. Taking everything into consideration, the Criminal Law (Amendment) Bill, 2019, attempts to make such a development when it calls for a gender-neutral segment punishing any type of sexual abuse.

CONCLUSION

The modern world is the result of accepting and rejecting societal norms. We need to change the mindset of the people and raise awareness about the mental health, the emotional and physiological trauma men go through. This progression is possible and then we can see the development that will come in individuals as well as in society. It is the time to take into account the social and public health issues with the focus being on the male community. We may develop appropriate strategies and start implementing them from the grass-root level. The men community is facing various issues and they can be saved through proper steps like recognizing the violence against men by women as a public health issue, issuing helpline numbers for the male victims by educating, raising awareness, and providing legal safeguards to them.

⁵ Indian Penal Code, 1860, s 377