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## Beyond gender bias: Understanding the dark side of protective legislation

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### Abstract

This research paper delves into the comprehensive landscape of protective laws for women in India, examining their significance and functions. It highlights the need for safeguarding women from historical discrimination and the pursuit of gender equality in society. These provisions are aimed at upholding equality and offering specific considerations for women in different spheres. Additionally, the study covers specific legal provisions under the Indian Penal Code, 1860, addressing crimes against women, including rape, kidnapping, dowry death, and sexual harassment, among others. It sheds light on the existence of dedicated legislation such as the Endowment Restriction Act, 1961, the Insurance of Ladies from Aggressive behavior at home Demonstration, 2005, and the Inappropriate behavior at Working environment (Avoidance, Denial, and Redressal) Act, 2013, aimed at safeguarding women's rights and well-being. Furthermore, the paper discusses India's drives for ladies' strengthening, like the Public Commission for Ladies and the Public Strategy for the Young lady Kid. It explores the Maternity Benefit Amendment Act, 2017, which seeks to balance professional and maternal responsibilities, and the Forbiddance of Kid Marriage Act, 2006, focusing on the unavoidable issue of youngster relationships in the country. The biased mindset of society plays a crucial role in perpetuating this issue, as it often fails to consider that men can also be victims of false accusations and harassment. In many cases, men facing accusations are stigmatized, lose their jobs, and suffer social isolation, even if later found innocent. Laws that were intended to protect women have unintentionally harmed men, and the repercussions can be devastating for families and communities. Efforts have been made by organizations and activists to address these concerns and advocate for the fair and just application of protective laws. However, much work remains to raise awareness, change societal attitudes, and ensure that legal systems protect the rights and dignity of all individuals, regardless of their gender. In conclusion, the misuse of protective laws by women raises important ethical and legal questions in contemporary society. While these laws were created to protect women's rights and safety, their misuse has consequences that extend beyond individual cases, affecting the lives and reputations of men and the impression of society. Adjusting the security of ladies' rights with safeguarding against false accusations and injustice is a complex challenge that requires thoughtful legal and societal solutions.

**Keywords:** Gender-specific laws, protective legislation, legal safeguards, women's rights, gender bias, misuse of laws, false accusations, gender equity, legal consequences, gender stereotypes

### Introduction

#### Laws regarding women protection in India

There are numerous defensive regulations for ladies in India. In this chapter, we will discuss in detail about their functions and importance.

There is, off course, the need to protect women from the age-old discrimination against them. These laws in the society aim to give equal status to ladies in the general public.

#### Constitutional Arrangements

The Constitution of India gives equivalent status to ladies as well as gives exceptional security to ladies in numerous areas. The arrangements connected with ladies in Constitution are as per the following:

#### Equality Under the watchful eye of Regulation

Article 14 gives correspondence under the steady gaze of regulation and equivalent security of regulations. It encapsulates correspondence based on sexes too.

Article 15(1) and 15(2) restricts the state from oppressing any resident just based on religion,

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region, rank, sex, spot, birth or any of them.

Article 15(3) engages the state to make unique arrangements for insurance of ladies and youngsters.

Article 16 accommodates uniformity of chance to all connecting with business arrangement to any office under the state.

Article 39(a) requires the state to coordinate its arrangement towards getting for people similarly the freedoms to a sufficient method for job.

Article 39(d) expects state to give equivalent compensation to rise to work for all kinds of people.

Article 39A guides the state to advance equity on the foundations of equivalent open door and to advance not many lawful guide by reasonable regulation to guarantee that open doors from getting equity are not denied to any resident.

Article 42 guides the state to make arrangements for getting equity and human circumstances at work and for maternity help.

Article 51A(e) gives that each resident of India has the major obligation to repudiate rehearses overly critical to the nobility of ladies.

Article 243D(3) and Article 243T(3) gives their at the very least 33% of the all out quantities of seats will be held for ladies in Panchayats and Districts separately.

Article 243D(4) and Article 243T(4) gives that at the very least 33% of quantities of workplaces of executive will be held for ladies in Panchayats and Districts.

## Legal Provisions

### Crimes against Women under IPC, 1860

IPC, 1860 recognises and punishes the crimes against women. Some of them are:

The Indian Penal Code (IPC), 1860, includes provisions that address crimes against women. Here are some relevant sections that deal with offenses against women.

1. **Section 375 - Rape:** This section defines and prescribes punishment for the offense of rape. It has been amended over time to broaden the definition of rape and to include various forms of sexual assault.
2. **Section 354 - Assault or criminal force to woman with intent to outrage her modesty:** This section deals with the offense of using criminal force against a woman with the intent to outrage her modesty.
3. **Section 509 - Word, gesture, or act intended to insult the modesty of a woman:** This section pertains to any word, gesture, or act intended to insult the modesty of a woman.
4. **Section 376 - Punishment for rape:** This section prescribes the punishment for the offense of rape, which may include imprisonment for life or a term of years, and also includes provisions for fine.
5. **Section 366 - Kidnapping, abducting, or inducing a woman to compel her marriage, etc.:** This section deals with offenses related to kidnapping or inducing a woman to compel her into marriage or any illicit intercourse.
6. **Section 498A - Husband or relative of husband of a woman subjecting her to cruelty:** This section deals with cruelty towards a married woman by her husband or his relatives. It is often invoked in cases of dowry harassment.
7. **Section 304B - Dowry death:** This section deals with the offense of dowry death, which occurs when a

woman dies under unnatural circumstances within seven years of marriage, and it is shown that she was subjected to cruelty or harassment for dowry.

8. **Section 376A - Intercourse by a man with his wife during separation:** This section criminalizes sexual intercourse by a man with his wife during separation, where a decree of judicial separation has been passed.

## Special Initiatives for Women

Protection of Women from Domestic Violence Act, 2005: This law is designed to provide protection to women from domestic violence and abuse. It recognizes various forms of domestic violence, including physical, emotional, economic, and sexual abuse.

1. **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:** This law aims to prevent and address instances of sexual harassment at the workplace. It mandates the establishment of Internal Complaints Committees (ICCs) in organizations to handle complaints.
2. **Dowry Prohibition Act, 1961:** This law prohibits the giving or taking of dowry in marriages. It aims to curb the social evil of dowry, which often leads to harassment and violence against women.
3. **Indecent Representation of Women (Prohibition) Act, 1986:** This legislation prohibits the indecent representation of women through advertisements or in publications, writings, paintings, figures, or in any other manner.
4. **Maternity Benefit Act, 1961:** This law provides maternity benefits to women working in certain establishments. It includes provisions for maternity leave, medical benefits, and other related aspects to support women during pregnancy and childbirth.
5. **Medical Termination of Pregnancy Act, 1971:** While not specific to women's protection, this law allows women to undergo safe and legal abortions under specified conditions, providing reproductive rights to women.
6. **Prohibition of Child Marriage Act, 2006:** While primarily focused on child marriage, this act is crucial for the protection of young girls. It sets the legal age for marriage and includes provisions to prevent and annul child marriages.
7. **National Commission for Women Act, 1990:** This legislation establishes the National Commission for Women (NCW), which works towards the protection and promotion of the rights of women in India.

## Law regarding women protection at international level

At international level various conventions, treaties and declarations are signed by different natives to safeguard the interest of ladies, and offering them equivalent privileges and chances.

These shows and arrangements plan to guarantee that ladies can appreciate basic liberties and central falseness similarly with men. A portion of the arrangements for ladies insurance at worldwide level are as per the following:

- a) **UN Ladies:** The Assembled Countries Substance for Orientation Correspondence and the Strengthening of Ladies.
- b) Show on the End of all types of oppression ladies (CEDAW)
- c) The sanction of Joined Countries, 1945.

## UN Women

UN Individuals States set worldwide guidelines for accomplishing orientation correspondence. UN ladies works with legislatures and common society to plan regulations, approaches, projects and administrations expected to guarantee that principles are really executed.

It targets making the vision of supportable improvement objectives a reality for ladies and young lady, and guaranteeing ladies' equivalent cooperation in all parts of life. It chips away at 4 vital needs.

1. Women lead, participate in and benefit in much the same way from government structure
2. Women have pay, security, decent work and financial freedom.
3. All women and young women continue with a day to day presence freed from a wide range of hostility.
4. Women and young women contribute in building practical congruity and home.

## Women Centric Laws in India

### 1. Denial of Child Marriage Act, 2006

the concept of a "Child Marriage Prohibition Officer" who is designated to prevent, monitor, and spread awareness about child marriages within a specified jurisdiction. This officer plays a pivotal role in the enforcement of the act, working to identify and intervene in potential cases of child marriages. The legislation also empowers the officer to take measures such as issuing injunctions against the solemnization of child marriages and conducting inquiries into reported or suspected cases.

In addition to preventive measures, the act imposes penalties for contravention of its provisions. Anyone who performs, conducts, directs, abets, or assists in the performance of a child marriage is liable for punishment, which may include imprisonment and/or a fine. The severity of the penalties reflects the gravity with which the legislature views the offense of child marriage and underscores the commitment to deterring individuals from engaging in such practices.

Moreover, the act recognizes the need for support and rehabilitation of victims of child marriages. It mandates the state governments to take measures to ensure the well-being and rehabilitation of victims, including providing them with necessary support services. This holistic approach acknowledges that addressing the consequences of child marriages extends beyond legal consequences and necessitates a comprehensive strategy to empower and protect the rights of the affected individuals.

the Prevention of Child Marriage Act, 2006, stands as a landmark legislation in India, providing a robust legal framework to combat the pervasive issue of child marriages. Through its definitions, provisions, and penalties, the act addresses the multi-faceted aspects of child marriages, emphasizing the protection of the rights and well-being of minors. The act not only criminalizes the solemnization of child marriages but also establishes mechanisms for prevention, enforcement, and rehabilitation, reflecting a commitment to eradicating this harmful practice and fostering a society that prioritizes the welfare of its children.

### 2. Endowment Disallowance Act, 1961

Be that as it may, this custom has now transformed into a method for separating however much cash as could be expected from the group of the lady, the disappointment of which would prompt badgering of the wedded lady because

of her significant other and his loved ones. Endowment passings are normal in Indian towns and families. The failure to pay share is one of the main drivers of the event of abusive behavior at home in a marriage. Subsequently, the Endowment Preclusion Act was established on May 1, 1961, to control the act of giving or getting share to likewise keep away from acts that are ramifications of this negligence. The Demonstration since its sanctioning has gone through certain alterations and the Abusive behavior at home Demonstration, 2005 was executed as one more layer of legitimate insurance for ladies who face brutality inside their families, most of which is connected with the act of settlement.

### 3. Domestic Violence Act, 2005

As a rule, the ladies and youngsters are oppressed and generally powerless against abusive behavior at home because of the man centric design of the general public we live in. This Aggressive behavior at home Demonstration, 2005 is implemented to guarantee that a female survivor of aggressive behavior at home can get a four-overlap emotionally supportive network, which would incorporate home requests, care orders, insurance and a litigant's cas.

The fundamental thought behind the execution of the Aggressive behavior at home Demonstration, 2005 is to get those enduring due to something very similar.

### 4. Maternity Advantage Change Act, 2017

Dealing with an infant kid alongside the additional tension of playing out the best on the work front can be debilitating and can prompt a powerlessness to make a harmony between the expert and individual existence of the lady. This further makes imbalance as far as the work dynamic among people via pursuing away open doors from ladies as a result of their nonattendance at fill in as an immediate outcome of their commitments. The Maternity Advantage Correction Act 2017 has been executed with defending new moms and keeping away from any sort of backfire that they might confront in view of becoming a mom.

### Misuse of protective laws by women

It is rightly said that misuse of anything can lead to dangerous consequences.

Some goes with women driven regulations. These regulations were made for the insurance of ladies and give them safe life. But because of misuse of these laws by women, consequences are being faced by men.

Women began involving these regulations in an incorrect manner by impeding the freedoms of the guys.

They often satisfy their ego and harass men by misusing these laws. Because of all this, men are kept at disadvantageous position.

There are numerous lawmaking bodies made to safeguard the privileges of ladies however none which support the reason for men in the public eye.

There is the law for the avoidance of inappropriate behavior of ladies at working environment, however no such regulation is made which would safeguard guys.

Ladies, at times make bogus allegations against men which run his profession as well as his standing for ever.

Information likewise shows that most extreme guys end it all because of mental injury in light of bogus claims charged by their female accomplices.

Segment 498-An and 376 of IPC are generally utilized by

females to embarrass men.

Women can bother men and abuse these regulations since there is attitude that men are more remarkable than ladies, so it is the lady likewise consistently needs to endure and not the man.

Being a feminist doesn't intend that to incline toward one orientation we ought to make harm other orientation.

The fundamental target of legal framework is to safeguard the honest and rebuff the blamed after appropriate request and preliminary.

Assuming there ought to emerge an event of Anil Bhardwaj v. Nimlesh Bhardwaj, that is the thing court hung in case a companion will not have sexual bury course with her significant other with no reasonable causes it will amount to brutality.

She expressed that she was playing out all the homegrown/family work however she not even once gotten a pay in return. In view of this misleading proof cited by the request. She had committed prevarication.

The court shared with defensive regulations have been abused by ladies by giving bogus proof and to the above reasons, the court excused the appeal.

The help ladies who are exposed to aggressive behavior at home however these regulations have been abused by hauling the relations of the spouses into the case, even the minors and grandparents. Ladies are recording a body of evidence against 10-15 individuals on the double.

On account of Kanaraj v. Territory of Punjab (2000), the appointed authority expressed that the family members of the spouses can't be associated with the case except if the allegations are demonstrated for certain.

On the off chance that this can't be demonstrated the family members of the spouse can't be remembered for the situation for the issue of the husband.

The appointed authority additionally expressed that to get equity for settlement passing, the group of the departed will generally include however many individuals from the family as they can.

In Rajesh Sharma and Ors. v. Territory of Bihar (2017), the court gave a couple of headings to keep away from the abuse of segment 498-An IPC.

The court requested to make a government assistance panel in each locale, which ought to contain para-legitimate workers, spouses of workplaces, social laborers and other resident workers. The obligation of the panel will be to investigate cases connected with Segment 498-An of IPC which are gotten by police.

The board will examine the issue and give a report to the specialists.

The capture of blamed ought to be kept waiting until to report of panel is gotten. The report ought to be seen by the justice prior to choosing the case.

On account of Saritha v. R. Ramachandran (2003), the court expressed on record that informed ladies who look for separate additionally start procedures against parents in law (who didn't expose ladies to mercilessness) under Sec. 498-An of IPC, which is outright abuse of the arrangements planned to save the ladies from deceitful spouse.

Regulations like the D.V. Act, segment 498-An of IPC, segment 304 of IPC and support Act are ladies driven as it were. However, it is can in different cases that in the questions of brutality, settlement and harassmen, men are not generally to blame and ladies can be guilty parties as well. Brutality can rise out of both the gatherings.

Spouses and their family members can be hauled in into case without having their part in some unacceptable committed.

This is exceptionally shameful and oppressive to the male orientation as there is no regulation to safeguard a male from wrongdoings of savagery and badgering.

There are some incidents of how women-centric laws are being misued by women.

There was a stunning occurrence that happened in Friendship Noida, where two young ladies requested that 25-30 hooligans beat up the casualties fiercely over a silly stopping issue. She had likewise recorded a bogus attack argument against them.

### **Some of the ways in which women misuse their protective laws are as follows**

#### **1. Faking domestic violence/abuse**

This is the point at which a lady denounces the mate/close family members of misuse. Since it is non-bailable offense, the denounced, whether blameworthy not, will attend prison until court date. There are a lot of situations where the ladies coercion the mate/family by taking steps to document such a case.

#### **2. Harassment at Workplace**

Many me are afraid of confronting women at workplace last someone harbours an ill will against them.

There have been incident where one is wrongly accused of sexual harassment at workplace.

Given a simple accusation can put down the reputation in the industry and the company in which the man is employed.

#### **3. Harassment of Public Place**

There have been numerous social examinations directed to show "mob mentality of people towards harassment at public place. If a man get caught in a situation that a woman is accusing hence of harassment publicly, he is at severe risk of getting physically abused by the public. Higher judiciary has started taking cognizance of the rampant misuse of protection laws.

However, still a lot of awareness needs to be spread so that the society can get over its misandrist mindset.

#### **Statistical Data**

As indicated by a report by Public Wrongdoing Record Department (NCRB), out of 90,000 bodies of evidence explored against endowment badgering, 10,000 cases emerged to be totally unjustifiable, and we are not discussing the cases that are looming injury. While on account of assault, take acquisitions are made in light of multiple factors, going from soured connections to extra conjugal undertakings.

According to the Delhi Commission of Ladies (DCQ) 53-2% of the assault cases documented between April 2013 and July 2014 in Delhi, were viewed as misleading.

#### **Some cases of False Allegations Against men by Women**

Instances of false allegations against men by women represent a complex and sensitive facet of legal and social dynamics, underscoring the importance of a nuanced understanding of the issue. While it is essential to acknowledge the prevalence and harmful consequences of genuine cases of abuse and harassment, it is equally crucial



to recognize that false accusations can occur, leading to severe repercussions for the accused. The spectrum of false allegations varies widely, ranging from false claims of domestic violence and sexual assault to fabricated accusations within familial, professional, or societal contexts.

One category of false allegations involves cases of false accusations of domestic violence. In some instances, individuals, often driven by personal motives such as revenge or manipulation, may resort to falsely accusing their partners or spouses of domestic abuse. These false claims can have profound effects on the lives of the accused, tarnishing their reputation, leading to legal repercussions, and straining relationships. The motivations behind such false allegations may stem from disputes over child custody, financial matters, or a desire to gain an advantage in divorce proceedings. It is crucial to differentiate these cases from genuine instances of domestic violence, as the impact of false accusations can contribute to skepticism and disbelief in authentic cases.

### Conclusion

The misuse of protective laws by some individuals, particularly women, is a multifaceted issue that warrants careful consideration in our society. While protective laws aimed at safeguarding the rights and well-being of women have undoubtedly played a crucial role in addressing gender-based discrimination and violence, their misuse can lead to severe and unjust consequences for others, particularly men. This misuse often involves false accusations, interference with men's rights, and personal motivations that go beyond the intended scope of these laws. The consequences of such misuse are profound. Innocent individuals, primarily men, can find themselves facing legal battles, loss of reputation, and even severe mental trauma. False accusations can tear apart families, damage relationships, and perpetuate biases that undermine trust in the legal system. The absence of equivalent legal mechanisms to protect men in similar situations has led to a perception of gender bias within the legal system. Efforts have been made to address these concerns through legal reforms, court directives, and the advocacy of organizations and activists. For instance, the establishment of welfare committees and the requirement to consider committee reports before making decisions in cases related to Section 498-A IPC are steps in the right direction. However, more comprehensive measures are required to mitigate the misuse of protective laws and ensure that justice prevails. It is also essential to combat the biased mindset within society that often assumes guilt based on gender stereotypes. An equitable approach to law and justice must consider the potential for false accusations and protect the rights and dignity of all individuals, regardless of their gender. In conclusion, addressing the misuse of protective laws is a complex societal challenge that requires a balanced approach. While protecting women's rights remains a paramount goal, it is equally crucial to ensure that these laws are not misused to harm innocent individuals. Achieving this balance is essential for a just and equitable society where all individuals are treated fairly under the law.

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