



Gender Bias in Indian Law

For Prelims: [Public interest Litigation](#), [Supreme Court](#), [Dowry Prohibition Act, 1961](#), [Section 498A](#), [Indian Penal Code](#), [Code of Criminal Procedure, 1973](#), Protection of Women from Domestic Violence Act, 2005, [Law Commission](#).

For Mains: Misuse of dowry and domestic violence laws and related issues, Need of gender neutral law

[Source: IE](#)

Why in News?

Recently, a [Public interest Litigation \(PIL\)](#) was filed in the [Supreme Court \(SC\)](#) after a techie's **suicide in Bengaluru** seeks intervention to review and reform **dowry and domestic violence laws**.

- The plea stated that [Dowry Prohibition Act, 1961](#) and [Section 498A](#) of the [Indian Penal Code \(now Bharatiya Nyaya Sanhita\)](#) have been **misused** to settle unrelated disputes and suppress the husband's family.

How Indian Laws are Gender Biased?

- **Section 304B (Dowry Death) of IPC:** Overtime people were made to believe that **every unnatural or untimely death** of a married Indian woman is **dowry death**.
 - In such cases a **husband or relative** shall be punished with **imprisonment** for no less than seven years, which may extend to life imprisonment.
- **Section 498A (Cruelty Against Women) of IPC:** **Section 498A** mandates imprisonment of **up to three years and a fine for a husband or his relatives** if found guilty of cruelty or harassment towards a married woman.
 - **Section 304B** is a **non-bailable, non-compoundable, and cognizable** offence, meaning a **trial** will occur even if the **allegation is false**, and the husband is **presumed guilty** until proven innocent.
 - According to [National Crime Records Bureau data](#), in 2012 nearly **200,000** people were arrested on **unproven dowry allegations**, with **only 15% of the accused convicted**.
- **Section 375 (Rape) of IPC:** Under Section 375 of the IPC, **only men can be perpetrators and women victims** of rape. The section does **not recognize men and transgenders as rape victims**.
 - Section 377 of IPC is the only option for male victims, but it faces challenges and **does not classify male-on-male sexual assault as rape**.
- **Section 69 of the BNS:** It criminalizes "**sexual intercourse by deceitful means**," including "promising to marry a woman without intent," with imprisonment up to 10 years and a fine.
 - A **consensual sexual relationship** made on the promise of marriage will be a crime only if a **man backtracks from it and not a woman**.
 - Criminalising a "**Promise to Marry**" can intrude into an individual's **right to privacy and**

autonomy ignores the fact the woman was in a relationship **on her own will**.

- **Section 354 of IPC:** It deals with assault or criminal force with the intent to **outrage a woman's modesty**. However, there is **no such law made to protect the modesty of a man and transgender**.
 - There are cases where **women bully men, and go unprosecuted**, because the law of the country **does not protect men** from such crimes.
- **Section 125 of CrPC Act, 1973:** Section 125 of the [Code of Criminal Procedure, 1973](#) sets out the **concept of maintenance** in India not only to the wife but also to her **parents and children**.
 - The maintenance law was designed to make **men solely responsible** for supporting their dependents, without considering **whether women actually need financial support**.
- **Protection of Women from Domestic Violence Act, 2005:** It does **not recognize men and transgender** as potential victims of **domestic abuse**.
 - Men facing **harassment or abuse** from partners have **no legal protection** under this act and are often met with **skepticism** when reporting such cases.
- **Custody and Divorce Proceedings:** In custody disputes, the **courts often favor mothers** as primary caretakers. **Fathers** are often **marginalized** even when they have a close bond.
- **Protection of Children from Sexual Offences Act, 2012:** A single woman can adopt kids of any sexual identity, but **a single man cannot adopt a daughter**.
 - In the event of a **married relationship, both spouses must agree** to the adoption.

Note: In the *Praveen Kumar Jain-Anju Jain divorce Case, 2024*, the Supreme Court laid down **eight factors for determining alimony** for the wife. It includes:

- Status of the parties, social and financial
- **Reasonable needs of the wife** and the dependent children
- Parties individual **qualifications and employment statuses**
- Independent income or **assets owned by the applicant**
- **Standard of life enjoyed by the wife** in the matrimonial home
- Any employment sacrifices made for the family responsibilities
- Reasonable litigation costs for a non-working wife
- **Financial capacity of the husband**, his income, maintenance obligations, and liabilities

What are Impacts of False Accusations and Legal Harassment?

- **Depression and Anxiety:** False accusations or legal harassment can cause severe **psychological distress**, leading to feelings of **betrayal, helplessness, and chronic anxiety**.
- **Social Stigma:** Men facing legal harassment or false accusations may be **stigmatized as guilty or untrustworthy**, leading to isolation from family, friends, and social networks.
- **Suppressed Emotions:** Societal expectations that men be **stoic and resilient** discourage them from expressing vulnerability or seeking support, leading to **internalized distress** and worsened mental health issues.
- **Marital Suicide Rates:** NCRB data shows that married men have a significantly **higher suicide rate than women**, partly due to legal and social challenges.
- **Financial Burdens:** For many men, the burden of **legal fees**, potential loss of employment can be financially devastating.

Redressal in Case of False Accusations

Redressal in Case of False Accusations

- Under **Section 500** of the Indian Penal Code, the **husband can file a defamation lawsuit**.
- Under **Section 9** of the CrPC, the husband can file a claim for **recovery of damages** which he and his family have been subjected to for the **false allegations of cruelty and abuse**.
- **Section 182** of the IPC safeguards against false 498A cases. If false statements are made, the

person can be sentenced to **6 months imprisonment, a fine, or both**, for misleading the judiciary.

(adsbygoogle = window.adsbygoogle || []).push({});

What is the Judicial Stand on Gender Bias in Indian Law?

- **Sakshi v Union of India case, 1999:** The SC directed the [Law Commission](#) to deal with the issue of **gender neutral rape laws**.
 - Consequentially, the **172nd Report of the Law Commission 2000** recommended replacing the offence of rape with a gender-neutral offence of "**sexual assault**."
- **Priya Patel v State of MP Case, 2006:** In this case, the perpetrator's wife witnessed the rape, slapped the victim, closed the door, and left, **showing intent to assist in the crime**.
 - However, the Court ruled she **couldn't be convicted of rape** because she was a woman.
- **Sushil Kumar Sharma Case, 2005:** The petitioner challenged **Section 498A** of the IPC for violating equality.
 - The Supreme Court acknowledged that **misuse** of the provision could lead to **legal terrorism but upheld its constitutionality**, stating its main purpose was to prevent dowry deaths.
- **Chandraban Case, 1954:** In Chandrabhan case, 1954, the **Delhi HC** concluded that most complaints against husbands are filed in the **heat of the moment over trivial fights**, and amidst the rift and hostility, the children suffer the most.
- **Arnesh Kumar v State of Bihar, 2014:** The SC, laid stress on the need for **exercising caution** while dealing with the arrest of an accused under Section 498A as it is a **non-bailable and cognizable offence**.

How to Achieve Gender-Neutrality in Indian Laws?

- **Acknowledging Gender Bias:** The outdated view that **men** are always **perpetrators and women victims** ignores the fact that men can also be victims of **domestic violence, harassment, and false accusations**.
 - Legal reforms should acknowledge these realities and ensure laws protect both men and women and other gender equally.
- **Sensitizing Criminal Justice System:** Efforts should be made to **sensitize judges, legal professionals and police** to recognize and challenge their own **unconscious biases** through training programs and workshops on **gender stereotypes**.
- **Revise Existing Laws:** It is essential to adopt **gender-neutral language** that ensures both men and women, and even non-binary individuals, are equally protected.
 - E.g., using terms like "**spouse**" instead of "**husband**" or "**wife**" ensures that the laws do not favor one gender over the other.
- **Institutions for Men's Welfare:** Institutions need to be gender neutral. The ministry of **women needs to be renamed as the ministry for welfare of human development** so that every person needs to be protected.
- **Sensitizing Society:** Achieving gender neutrality requires **challenging** stereotypes that see **men as strong and emotionless and women as weak and nurturing**.
 - Both men and women can be victims or perpetrators and should be treated with **equal respect**.

Drishti Mains Question:

Q. In the context of gender equality, examine the biases in Indian laws. What reforms are necessary to create gender-neutral laws in India?

Prelims

Q. Which of the following gives 'Global Gender Gap Index' ranking to the countries of the world? (2017)

- (a) World Economic Forum
- (b) UN Human Rights Council
- (c) UN Women
- (d) World Health Organization

Ans: (a)

Mains

Q.1 "Empowering women is the key to control population growth". Discuss. **(2019)**

Q.2 Discuss the positive and negative effects of globalization on women in India? **(2015)**

Q.3 Male membership needs to be encouraged in order to make women's organizations free from gender bias. Comment. **(2013)**

PDF Refernece URL: <https://www.drishtiias.com/printpdf/gender-bias-in-indian-law>

