

Mental Health of Men amidst the Increasing Gender Bias in Laws: A Sociological Study in the Indian Context

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Abstract:

In recent years, the mental health of men in India has come under significant strain due to perceived gender biases in the legal system. This research paper explores the growing sentiment among men that they are inadequately protected by laws, leading to feelings of vulnerability and helplessness. A key area of concern is the increasing ease with which women can allegedly make false accusations of harassment and assault, often resulting in monetary compensation. This paper examines the impact of these accusations on men's mental health, highlighting the lack of legal recourse available to them.

The introduction of the BNS Clauses has further cemented the notion that the legal framework in India lacks provisions to protect men. Current laws regarding rape and assault fall under the section "Of Offenses against Women and Children - Of Sexual Offenses," raising critical questions about the legal protection available for men who face harassment or assault, or those falsely accused. This research argues that regardless of the gender ratio, laws should be neutral and provide equal protection for all individuals.

Through a sociological lens, this paper scrutinizes whether the current gender-biased legal approach effectively addresses the issues it aims to solve, and what implications this has for societal equality. The study concludes with a call for a more balanced legal system that ensures justice and mental well-being for all genders, emphasizing the necessity of neutral laws to prevent further marginalization and psychological distress among men.

Keywords: mental health of men, gender- neutral laws, gender biased laws, protection of men, male assault, power, gender, harassment

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Introduction:

At the roll out of the ‘#metoo’ campaign, the world witnessed an emotional outburst of women coming forward to share their stories and support each other. Many men too came forward in support of their female friends, colleagues, wives, daughters, etc. who have been victims of sexual harassment, molestation, rape and other forms of assault. This was a time when the concept of gender neutral crime struggled to find a space in the spotlight and people took to social media to spread awareness about the possibility of men being the victim, rather than the predator, of sexual assault. The world is not yet ready to acknowledge the possibility of male sexual assault as many find it an incomprehensible act. The concept of gender-neutral crime, where individuals of any gender can be victims or perpetrators, has struggled to gain traction. Despite some attempts to raise awareness through social media and other platforms, societal attitudes and legal frameworks often fail to recognize men as potential victims of sexual assault. This oversight perpetuates the stereotype that men are predominantly aggressors, rather than acknowledging the complexity and reality of sexual violence as a human issue.

This issue is particularly acute in the Indian context, where recent legislative developments, such as the introduction of the *Bhartiya Nyaya Sanhita* (BNS) in 2023, have brought attention to the gender biases embedded in the legal system. The BNS, while aimed at reforming criminal laws, has been criticized for its clauses that are seen as heavily skewed towards protecting women, often at the expense of ignoring male victims. The current legal framework in India, as exemplified by the BNS 2023, fails to adequately protect men from false accusations and does not provide sufficient recognition of male victims of sexual assault. This gender biasness in laws not only undermines the principle of equality before the law but also contributes to a social stigma that prevents male victims from coming forward. The lack of legal recourse for men exacerbates feelings of vulnerability and injustice, impacting their mental health and overall well-being.

By documented definition, *sexual assault* is an “illegal sexual contact that usually involves force upon a person without consent or is inflicted upon a person who is incapable of giving consent (as because of age or physical or mental incapacity) or who places the assailant (such as a doctor) in a position of trust or authority” (Merriam-Webster, n.d.). According to this definition, this person who faces the assault can be anyone, irrespective of the gender or sex. But somehow the society has assumed that this is always a woman and the man is predominantly always the predator. “Sex-role or traditional gender stereotypes depict females

as submissive and passive and men as dominant and assertive...According to this stereotype, females are the only victims because they are weak and men cannot be victims because they are physically strong enough to defend themselves from such an attack” (Nicola L. Fisher, 2013).

Such stereotypes, of men being stronger and masculine, eliminate in the minds of people the possibility of women being the perpetrator or men being the victim. It stops men from reporting such cases or seek medical assistance, as they fear their masculinity will be compromised with and made fun of; the fear of acceptance is immense and therefore many such incidents go unnoticed or unreported. This not only affects their physical and sexual well-being, but also their mental well-being in catastrophic ways.

Literature Review:

From classical theories such as Darwin’s Evolution theory to contemporary theories on social stratification, discussions and debates on social inequality have been persistent throughout. The entire stratification literature is based on the principle that society is organised in a hierarchical order and for the smooth functioning of the society it is essential to maintain this order. This idea is supported and glorified by the functionalist school of thought in sociology. Kingsley Davis and Wilbert E. Moore, in *Some Principles of Stratification*, write, “Social inequality is thus an unconsciously evolved device by which societies insure that the most important positions are conscientiously filled by the most qualified persons. Hence every society, no matter how simple or complex, must differentiate persons in terms of both prestige and esteem, and must therefore possess a certain amount of institutionalized inequality” (Davis & Moore, 1945).

This social inequality that Davis and Moore advocate, exist in social institutions like religion, government, wealth, property and labor and in terms of technical knowledge. But one can also see it existing in the case of gender [See (Acker, 1973), (Mitchell, 1972) and (Hill Collins, 1991)]. The treatment and contribution of genders vary from culture to culture and from society to society. But what can be seen common across cultures is the inferiority status experienced by women with relation to men. Gender roles and statuses have never been equal. The role of men and their existence has perpetually been seen as more important than that of women. “But actually it does make a great deal of difference who gets into which positions, not only because some positions are inherently more agreeable than others, but also because some require special

talents or training and some are functionally more important than others” (Davis & Moore, 1945).

India has had a patriarchal tradition for ages and the gender inequality norms are deeply rooted in its culture. The sexual division of labour took a very serious shape in the country as the roles never reversed for women. The ancient practise of ‘men going out to work and being the protector of the family, and women staying at home and being the nurturer’ did not change much over the years. “The cultural construct of Indian society which reinforces gender bias against men and women, with varying degrees and variable contexts against the opposite sex, has led to the continuation of India’s strong preference for male children” (Kohli, 2017). The gendered stratification of the society may or may not have contributed to the maintenance of social order, but what it did give rise to be social evils that later required legislative corrective actions. Power and authority resulted in men becoming the perpetrator of violence and crime against women. The Dowry Prohibition Act, 1961, The Protection of Women from Domestic Violence Act, 2005, The Commission of Sati (Preventions) Act, 1987, and other special provision acts for women and children came up in order to safeguard women and children [See (Pathak, 2020)].

Such acts and laws were necessary at the time when they were passed and resulted in protecting many women. But what the society completely overlooked was the formation of laws that were specifically protecting only one gender. Terms such as ‘for the protection of women’, ‘for the protection of children’ can be easily seen and heard in the legislative circuit, but there are no laws that protect the rights of men or male victims. There is also a serious lack of literature revolving around this issue and this paper aims to bridge that gap. Inequality of genders still exist in the Indian society but the roles are gradually shifting now. Women today are more educated and well equipped with resources as compared to a decade ago. The idea of them being the perpetrators should not be completely eliminated, especially when we have cases to prove otherwise.

Discussion:

The legal framework in India has long been influenced by societal norms and cultural expectations, which have historically positioned women as a vulnerable group needing protection. This protective stance has led to the creation of numerous gender specific laws aimed at safeguarding women’s rights, particularly in areas such as sexual assault, harassment, domestic violence and workplace discrimination. According to the BNS, Chapter V ‘Of

offences against woman and child’, there are strict laws against act of rape, sexual assault, harassment, death due to dowry, and many more (Ministry of Law and Justice, 2023). All of these are important legislative steps that had to be taken by the governing body of the country. But not all the clauses are fair and just, as they are supposedly meant to be.

Firstly, the chapter name suggests ‘offences against woman and child’, which automatically eliminates the idea of a man or the third sex getting raped or sexually assaulted. This is completely biased in terms of the legislative outlook as we have ample proof that men too are victims of assault and violence. “A case of sodomy, which is the only act under Section 377 which protects men from male-on-male rape, took place in Muzaffarnagar, a 10-year-old boy was sodomized by a youth in his Muzaffarnagar district....No efforts have been made by the police to bring justice to the boy who was sodomized, and the accused is still walking free” (Mehta, n.d.). According to the reports of The Centre for Disease control and Prevention (CDC): Nearly 1 in 38 males have experienced complete or attempted rape in his lifetime (Mehta, n.d.).

“The rampant violence of cruelty and assault against men largely goes unreported due to the fear of being ridiculed by the society or being laughed at by the colleagues. Moreover, the policy of the Indian Government of not affording protection to men under the umbrella of gender specific laws has only added to all these problems” (Chaujar & Bakshi, 2016). Many men don’t report cases of assault as they fear that nobody will believe them and they might be labelled as being weak. Actor Terry Crews, came out with his story of facing assault by a Hollywood executive and he reported that the reason why he didn’t take action against this person was that he was scared nobody would believe him (The Indian Express, 2019).

With the 21st century coming in, especially after the introduction of the third wave of feminism in the late 20th century, the role of women in the society has significantly changed. There is no doubt that crimes against women continue to persist and it is still a challenge for our legal system to control it. But, another fact that we as a society need to accept and talk about openly is that women are now not just the victim but also the perpetrator of crime. “The laws considering abuse of women varying from sexual to economic does not recognise the abuse that a man faces which shows inequality in the legal system” (Dwivedi, 2021).

It is also problematic because our laws do not state what the police must do if the cases filed against the men are false in nature or if the women are lying. There are many such incidents that have been reported in the recent times where women have been found guilty of charging

false cases against men. “On December 29, 2021, Gurugram police detained a “honey trap” bat and arrested Miss AB 22-year-old Delhi resident with a Bachelor of Arts degree, who confessed to falsely accusing men of sexual assault and extortion. She searched men on dating apps, parties, gyms, clubs, and social media platforms. She then met with them in person, had consensual sex, and then convicted them of the assault until they complied with their terms. She admitted that, she had additional seven such false FIRs of sexual accusation against men on record” (Kumar Tripathi et al., 2023). Another case cited by Kumar Tripathi et al. (2023) was about a girl who filed six rape cases against five men in the city of Jabalpur. She married the first man and filed cases of dowry, domestic violence and rape against him and further went ahead to file four more cases between the years 2021-2022.

Such cases makes one question the authenticity of the law and the kind of protection men receive from the legal system. One of the highly abused sections under the Indian Penal Code has been section 498A. According to this section, “Whoever being the husband or the relative of the husband of a woman, subjects such a woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine” (ezyLegal, 2022). This section has been time and again abused by women for various reasons, either for extraction of money from the in-laws or out of vengeance. Such cases not only ruin the present and future career of the men who are being accused, but also creates an environment of humiliation and embarrassment for the family too.

National Crime Records Bureau has released the national crimes report in the year 2020. According to this report (as shown in Table 1, 2 and 3), ***cases closed by police as false*** are 5,520; 3,375; and 5,821 respectively. These numbers are not small if we consider the fact that many cases might not have been reported or might have been missed out by the NCRB. Another section of this report which is concerning are the *cases closed due to false, insufficient evidence, mistake or civil dispute*. What is alarming here is the word mistake. How can one person file a case against another person on grounds of rape or sexual assault by mistake? These are serious allegations that can ruin a person’s life or make him land in the prison for years.

Cases reported	Cases closed by police as false	Cases closed due to false, insufficient evidence,	Tried by court	Acquitted	Convicted	Persons Arrested	Arrested Male	Arrested Female

		mistake or civil dispute						
1,11,549	5,520	16,151	18,967	14,340	3,425	1,20,306	96,497	23,809

Table 1: Cruelty by husband or his relatives, NCRB 2020 Report

Source: (Narayan Bhardwaj, 2021)

Cases reported	Cases closed by police as false	Cases closed due to false, insufficient evidence, mistake or civil dispute	Tried by court	Acquitted	Convicted	Persons Arrested	Arrested Male	Arrested Female
28,046	3,375	5,015	9,713	5,403	3,814	32,610	31,103	1,507

Table 2: Rape, NCRB 2020 Report

Source: (Narayan Bhardwaj, 2021)

Cases reported	Cases closed by police as false	Cases closed due to false, insufficient evidence, mistake or civil dispute	Tried by court	Acquitted	Convicted	Persons Arrested	Arrested Male	Arrested Female
85,392	5,821	12,426	20,182	13,649	5,629	94,827	89,498	5,329

Table 3: Assault on women with intent to outrage her modesty

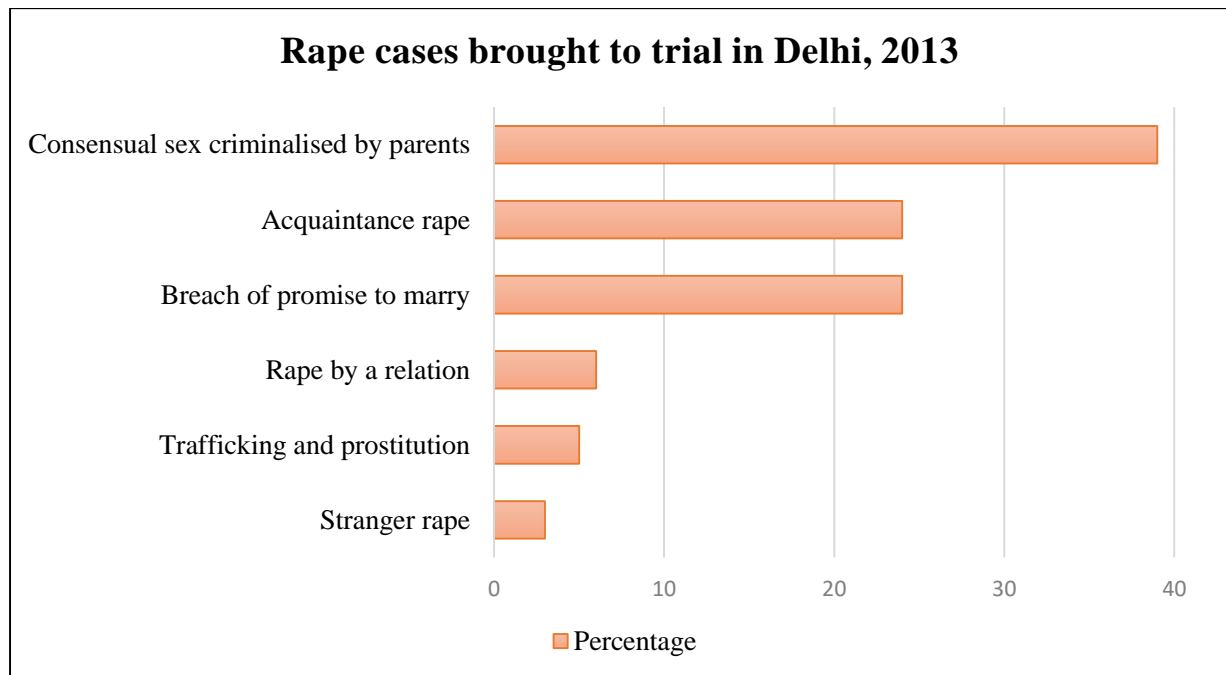
Source: (Narayan Bhardwaj, 2021)

As mentioned above, many women misuse the laws for their own benefits and mould it according to their convenience. These laws came into existence to protect women and their constitutional rights. It also gave them a sense of power that they can legally fight against their

perpetrators and they will get justice by the law. It is historically and sociologically proven that whenever power and authority is given to any agent, they have intentionally or unintentionally (mis)used it for their welfare. Famous German sociologist, Max Weber, describes power as the ability of an individual to exercise his will over other people. It not only reflects in personal relationships, but also during social interactions and larger in public dynamics. Those is power always try to impose their will on others and use various means to do so. With the coming in of such gender biased laws, women have been negatively empowered too, feeling that this new found power bestowed on them by the law has made them superior to everything else.

This has recently spiralled into women using laws as means of coercion against men. Data journalist, Rukmini Shrinivasan, who worked for The Hindu, studied 460 rape cases in the year 2013 in Delhi district courts that went for a full trial. This study was done right after the 2012 Delhi gang rape, when Delhi was publicly declared as the national rape capital of the country. Some of her findings are shown below in figure1.

Figure 1



Source: Rukmini Shrinivasan, The Hindu

According to her findings, “more than one third of the 460 cases involved young people who had engaged in consensual sex outside marriage until their parents found out and used the criminal justice system to end the relationship” (Jolly, 2017). Many of these women’s families misused the laws and filed rape cases against the men who their daughters had consensual sex

with and forced the men to say yes to marriage. Here what is noticeable is that even families of the perpetrators support such acts (and in some cases initiate it) due to the fear of getting socially mocked. Even in 21st century, sex is a taboo for majority of Indians and the slightest hint of premarital sex can result in social judgements and mockery. This reason is not enough to falsely accuse someone of rape and force them to into marriage. It is already established that such a marriage or relationship would not last.

Thousands of men suffer due to such false allegations on a yearly basis and these cases don't get shut quickly. The accused person may never be able to repair his social image even if he is proven to be not guilty and released of all charges. The allegations are so strong that it creates a negative mental schema in the minds of the people around. According to Vinney (2019), "A schema is a cognitive structure that serves as a framework for one's knowledge about people, places, objects and events." The accused man will always be looked as an 'accused man' for the rest of his life. That will become is identity for the social world. Even if he is released by the court of trial, he will never be able to get free of the social trial. It also results in a lot of wastage of money and time. The accused may be asked to leave his job as the company does not wish to get associated with a person who is accused of dowry or rape or assault. He might exhaust his family investments and savings in an attempt to pay for years of trial.

What is most concerning is that the person completely loses his self-confidence and self-esteem. Apart from social and financial harassment, men and their families also face psychological harassment. According to a study conducted by K Brooks and Greenberg (2020), "...of the 30 participants, 19 felt they had experienced permanent changes to their personality, such as becoming paranoid and anxious (60%), hypervigilant or antagonistic (50%) and less confident (53.3%)...Along with changes in personality, participants also experienced various other losses related to their sense of self, for example loss of dignity and credibility, loss of image of the self as a doting parent and loss of hope and purpose for the future." Many slip into depression, develop anxiety, become hostile and insensitive towards the outside world. They feel that since nobody cared for them, they too need not care about anyone else.

Such gruesome repercussions make it all the more important for gender- neutral laws to come into existence. This will make our society truly equal. Although many women might not agree to this move and argue that women need more protection than men. It may be true at some levels considering the ratios. But laws cannot function in that manner and be gender biased. For an equal and just society to come into existence, it is important for the legal system to

protect the rights of all citizens. Feminism too believes in the equality of sexes. A system where women enjoy more legal privileges than men cannot be called an egalitarian system.

“...in order to uplift one section; we do not have to oppress the other! Wouldn't it be very hypocritical for us to proclaim EQUALITY as a fundamental right, and then deny the same to men, through such detrimental laws? The concept of 'Abala Nari', which is so deeply entrenched in the current scenario, holds no water, as women have travelled a remarkable journey forward, and are indeed, in the present set of circumstances, not lagging behind” (Kumar, n.d.).

Conclusion:

The misuse of gender-biased laws by some women in India, as explored in this paper, highlights a critical need for legal reform to ensure true gender equality and justice. These laws, while designed to protect women, have been manipulated in ways that harm innocent men, leading to severe social, financial, and psychological consequences. The exploitation of these laws by women and their families, not only damage the lives of those falsely accused but also undermines the credibility of genuine cases, ultimately losing sight of the fight for justice and equality.

Max Weber's concept of power aptly describes the misuse of authority that has emerged with these gender-biased laws. Empowering one group at the expense of another creates an imbalance that fosters coercion and manipulation. The societal stigma and lasting damage to the reputations of falsely accused men highlight the urgent need for a more balanced legal framework.

Gender-neutral laws are imperative to address this imbalance. By ensuring that legal protections are not inclined towards one gender, we can create a system that upholds the rights of all individuals, regardless of gender. The introduction of such laws would not only protect men from false accusations but also encourage victims of all genders to come forward without fear of bias or disbelief. This move towards legal equality aligns with the core principles of feminism, which advocates for the equal treatment of all genders.

The psychological impact on men who are falsely accused, as highlighted by the study conducted by K. Brooks and Greenberg, is profound. The loss of self-esteem, increased paranoia, and other personality changes experienced by these men illustrate the deep-rooted harm caused by false allegations. These repercussions further emphasize the need for a legal

system that does not discriminate based on gender but rather seeks to protect the rights and dignity of every individual.

Gender-neutral laws are not new or something that hasn't been in existence till this date. There are many countries that can serve as an inspiration for India to introduce gender-neutral laws. For example, in the United Kingdom, "Protection from Harassment Act, 1997 is gender impartial as it explains prohibition of harassment by stating "A person must not pursue a course of conduct which amounts to harassment of the other..." (Pathak, 2020). We can notice that none of the genders are specifically mentioned here. The Act applies equally to both the genders. Similarly, in South Africa, "The Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 has declared rape and sexual assault as act of 'any person' thus framing it gender neutral...Again, the Domestic Violence Act, 1998 defined complainant as "any person who is or has been in domestic relationship with the respondent.." which is a practical fairness approach" (Pathak, 2020). These examples clearly state how by changing certain words or linguistic of the law, we can make a huge difference for the society.

In conclusion, the current legal framework in India, while well-intentioned in its aim to protect women, requires significant reform to prevent its misuse and ensure true justice. Implementing gender-neutral laws is a crucial step towards achieving an egalitarian society where the rights of all individuals are respected and protected. This approach not only addresses the immediate issue of false accusations but also fosters a more just and balanced society, upholding the principles of equality and fairness for all.

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