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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

“FROM PROTECTION TO PROSECUTION: THE UNSEEN GENDER BIAS IN INDIAN JUSTICE”

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ABSTRACT

In contemporary India, a wide range of Gender-Protective legislations have been enacted with the objective of safeguarding women from violence, discrimination and social injustice. These legal provisions represent a corrective response to centuries of structural inequality and patriarchal oppression. However, judicial experience in recent years reveals that certain gender specific laws, through well-intentioned, have in some instances been alleged to be misused, leading to concerns regarding **Procedural Fairness** and **Equality before the Law**.

This paper critically examines the transition of select women-centric legal provisions from instruments of protection to mechanisms that in specific cases operate as a tool of prosecution. Though **doctrinal analysis** and **judicial scrutiny** of provisions such as Section 498-A of the Indian Penal Code, the Protection of Women from Domestic Violence Act, 2005 and the Sexual Harassment of Women at Workplace Act, 2013, the study explores how **gender presumptions may affect Investigation, Prosecution and Judicial Outcomes**.

The research does not seek to undermine the legitimate of protective legislations or the experiences of genuine victims; rather, it highlights the necessity of **balancing protection with the Constitutional Guarantees of Equality, Due Process, and Natural Justice**. The paper argues for calibrated legal and procedural reforms that preserve the protective intent of such laws while

preventing their misuse, thereby promoting a more gender fair and constitutionally complaint criminal justice system.

KEYWORDS: Gender Bias, Judicial System, Men's Rights, False Accusations, Equality before Law.

INTRODUCTION

“It is impossible to think about the welfare of the world unless the condition of women is improved .It is impossible for a bird to fly on only one wing”

-Swami Vivekananda

The Indian criminal system is founded upon the constitutional **principle of equality, fairness, and non discrimination**. Over time, the state has enacted a range of gender-protective legislation aimed at addressing historical injustice and system discrimination faced by women. **These laws seek to safeguard women against Violence, Exploitation, and Social Oppression** and represent a necessary corrective response to deeply entrenched patriarchal structures within Indian society.

Historically, women in India have been subjected to social, economic, and legal marginalization. Practices such as **child marriage, denial of education and property rights, and gender based violence significantly curtailed women's autonomy and dignity**. Ancient social norms and customary laws reinforced by patriarchal interpretations of religious texts often positioned women as dependents rather than as independent legal persons. In such a context, the absence of codified rights and remedies resulted in the systematic subordination of women within both private and public spheres.

The colonial period marked an important transition in the legal recognition of women's rights. The introduction of liberal's ideas of Equality and Justice, coupled with the efforts of social reformers such as **Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, and Joytiba Phule**, and initiated legislative reforms addressing practices like Sati, Widowhood Restrictions, and Denial of Education. These reforms laid the foundation for Post-Independence constitutional guarantees of

gender equality.

Following Independence, the Indian Constitution institutionalized gender justice through Article 14, 15, and 21, ensuring Equality before Law and Prohibiting Discrimination on the basis of Sex. Article 15(3) further empowered the state to enact special provisions for women, acknowledging the need for affirmative measures to address historical disadvantage. In pursuance of these constitutional mandates, several women-centric legislations were enacted, including **the Dowry Prohibition Act, 1961; Section 498-A of the Indian Penal Code ;the Prevention of Women from Domestic Violence Act, 2005 and the Sexual Harassment of Women at Workplace (Prevention , Prohibition and Redressal) Act, 2013.**

While these laws have played a crucial role in empowering women and providing legal remedies against gender-based violence, judicial experience has revealed instances where concerns regarding their application and procedural safeguards have arisen. **Courts have in certain cases, acknowledged the possibility of misuse or over-implication, particularly in matrimonial and workplace disputes.** Such instances have prompted a broader discourse on whether the implication of gender specific laws adequately balances the objectives of protection with constitutional principles of fairness, due process and equality before the law.

This paper seeks to critically examine this evolving tension within the Indian criminal justice system. **It explores the shift from protection to prosecution by analyzing how select Gender-Protective Laws, through enacted with legitimate objectives,** may in certain cases operate in a manner that raises questions of Gender bias and Procedural Imbalance. Without undermining the legitimacy of protective or the experiences of gender victims, the study argues for a more calibrated legal framework- **one that preserves the protective intent of the law while ensuring fairness, accountability and equal treatment for all individual's irrespective of gender.**

RESEARCH PROBLEM

Whether Gender-Protective laws in India, enacted with the objective of safeguarding the Rights of Women, have been misused in practice and have consequently shifted from instruments of

Protection to tools of Prosecution against specific gender.

OBJECTIVE OF THE STUDY

The purpose of this research is to critically analyze the misuse protective laws such as section **498A**, **Section 304B**, **Section 354 series**, and the **Domestic Violence Act** and **POSH ACT** and to evaluate their impact on men's rights with the framework of constitutional equality. It aims to highlight the need for gender neutral legal reforms that uphold the spirit of justice for all individual, irrespective of gender by identifying the loopholes and examining judicial interpretations the study seeks to purpose measure that ensure fairness accountability and balance in the implementation of protective legislation.

RESEARCH QUESTIONS

- a) Do gender specific laws presume male guilt in criminal proceedings?
- b) How was the judiciary responded to allegations of misuse?

RESEARCH METHODOLOGY

This research adopts a **doctrinal and analytical method**. Primary sources include statues such as the *Bhartiya Nyaya Sanhita* (2023), *Bhartiya Nagrik Suraksha Sanhita* (2023), and the *Protection of Women from Domestic Violence Act, 2005*. Secondary sources include *Judicial Pronouncement*, *Law Commission Reports*, *Books*, and *Scholarly Articles*.

MAIN BODY

PROTECTION OF WOMEN RIGHTS UNDER THE CONSTITUTION OF INDIA:

“Human rights are Women's rights, and women's rights are human rights. Let us not forget that among those rights are the right to speak freely and the right to be heard”- **Hillary Rodham Clinton**.

The Constitution of Independent India followed the basic principle of women's equality as accepted in the Fundamental Rights resolution of Karachi congress session. The constitution of India not only grants equality to women but also empowers the state to adopt measures of positive

discrimination in favor of women to neutralize the socio- economic, political and educational disadvantages faced by them , some of the below mentioned rights ensures the Women Protection, Equality and Freedom of Choices.

Article 14: Men and Women to have equal rights and opportunities in Political Economical and Social Sphere

Article 15 (1): Prohibits discrimination against any citizen on grounds of religion, caste, sex etc.

Article 15(3): Special provisions enabling the state to make affirmative discrimination in favor of women

Article 16: Equality of opportunities in matter of public appointments for all citizens

Article 23: Ban on trafficking in human and forced labor

DIRECTIVE PRINCIPLES OF STATE POLICY:

Article 39(a): State shall direct its policy towards security all citizens men and women equally the right to means of livelihood

Article 39(d): Equal pay for equal work for both men and women

Article 42: The State to make provision for ensuring just and human condition of work and maternity relief

Article 51(A) (e): To renounce the practices derogatory to the dignity of work.

RIGHTS OF WOMEN AND LEGISLATIVE SAFEGUARD:

- The Protection of Women from Domestic Violence Act, 2005: This law addresses issues related to domestic violence and provides legal remedies such as protection orders, residence orders, and monetary relief for women who face physical, emotional, or economic abuse within their homes.
- The Dowry Prohibition Act, 1961: This act aims to eradicate the practice of dowry, which is still prevalent in some parts of India. It makes giving or receiving dowry a criminal offence.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013: This legislation mandates the establishment of Internal Complaints Committees (ICCs) in workplaces to address and redress complaints of sexual harassment at work.

- The Prohibition of Child Marriage Act, 2006: It seeks to prevent the marriage of girls below the age of 18 and boys below the age of 21.
- The Indian Penal Code, 1860: Several provisions within the IPC deal with crimes against women, such as rape (Section 375), molestation (Section 354), and dowry-related offenses (Section 498A).
- National commission for women (NCW): it was set as statutory body in 1992 under the national commission for women Act 1990. National Commission for Women

Section 3 of National Commission for Women Act, 1990 provides for the constitution of National Commission for Women to investigate and examine all matters relating to safeguards provided for the women under the Constitution and various other laws. The First National Commission was constituted on 31st January, 1992. It takes up Social Justice.

The Legal Instruments complaints of women referred to it for redressed irrespective of caste. Accordingly, problems of SC women including those of physical violence against them are also dealt with by it. As other statutory Commissions, the commission has to submit a report annually which is laid on the table of both the Houses. NCW has always made recommendations and acted on various issues that have made an impact on the status of women.

1. SHIFT FROM PROTECTION TO PROSECUTION

Gender-Protective legislation in India was enacted as remedial measures to address entrenched gender-based violence, discrimination, and power asymmetric within social and familial structures. Laws such as **Section 489-A of the Indian Penal Code, Provisions relating to sexual offences, and the protection of women from Domestic Violence Act, 2005** were introduced with the primary objective of providing effective legal recourse to women who had historically been denied access to justice. These enactments represent a conscious legislative effort to correct systematic inequalities and ensure substantive equality.

However judicial experience over the years indicates that the implements of certain gender specific laws has generated concerns, relating to procedural fairness and proportionality. Courts across

jurisdictions have some cases has resulted in unintended consequences. In particular, **allegations of over-implication, mechanical arrests, and the absence of preliminary scrutiny have prompted judicial intervention to prevent abuse of legal process.**

The transition from protection to prosecution becomes evident when gender-protective provisions, instead of functioning as shields for genuine victims, are perceived to operate as coercive tools in certain disputes, especially matrimonial and workplace conflicts. These concerns do not undermine the necessity of such laws consequences without adequate procedural safeguards. The presumption of male culpability and female victimhood, through rooted in historical realities, may in certain cases conflict with the constitutional mandate of equality before the law.

The Supreme Court of India has repeatedly emphasized the need for cautious and balanced implementation of gender protective laws. **In Arnesh Kumar v State of Bihar (2014)**¹, the court recognized the misuse of section 498A and issued guidelines to prevent unnecessary arrest, stressing that deprivation of personal liberty must not be routine or mechanical. Similarly, in **Rajesh Sharma v State of Uttar Pradesh (2017)**², the court acknowledge the rising number or exaggerated complaints in matrimonial disputes and sought to introduce procedural safeguards, although some of these directions were later modified in social action forum for **Manav Adhikar v Union of India (2018)**³. Nonetheless the judicial concern regarding misuse remained unequal.

These judicial pronouncements reflects an evolving legal consciousness **that seeks to strike a balance between protecting vulnerable individuals and safeguarding constitutional rights such as personal liberty, due process and fair trial.** The shift from Protection to Prosecution is not inherent in the legislation itself but often arises from its uncritical application. When legal provisions are invoked without adequate scrutiny, they risk undermining public confidence in the justice system and may inadvertently weaken the credibility of genuine claims.

Therefore, **the discourse on misuse must be approached with caution and responsibility.** The

¹ 8 SCC 273

² 8 SCC 821

³ 10 SCC 443

objective is not to dilute the protective framework established for women, but to ensure that such protections operate within a constitutionally balanced structure that prevents abuse while preserving access to justice. A justice system that is perceived as disproportionately punitive towards a particular gender risks deviating from its foundational principles of fairness and equality.

2. JUDICIAL RESPONSE TO ALLEGED MISUSE OF GENDER PROTECTIVE LAWS

Judicial scrutiny has played a crucial role in addressing concerns surrounding the alleged misuse of gender protective legislation. Courts have consistently **emphasized that while such laws are indispensable for protecting women against symmetric justice their application must not compromise** constitutional safeguards such as personal liberty, due process, and equality before law's. The following cases illustrate how courts have attempted to strike this delicate balance.

2.1 SECTION 498A IPC AND MATRIMONIAL DISPUTES

Section 498A of the Indian Penal Code was enacted to address **cruelty and harassment faced by the married women within matrimonial homes**. Despite its salutary objective, courts have acknowledged that the provision has, in certain instances, been invoked in a manner leading to over implication of the husband and his relatives.

In **Rajan v. State of Madhya Pradesh (2023)**⁴, the Madhya Pradesh High Court examined a matrimonial dispute wherein allegations under section 498A IPC were leveled against the husband and multiple family members. **The court noted material inconsistencies in the complaint, including unexplained delay and lack of corroborative evidence**. Emphasizing the need for judicial caution, the court observed that indiscriminate prosecution of family members without **prima facie**⁵ material undermines the fairness of criminal proceedings.

The court reiterated that the object of section 498A is to punish genuine acts of cruelty, not to be employed as a means to settle personal scores in matrimonial disputes. Relying on the Supreme Court's observations in **Preeti Gupta v State of Jharkhand (2010)**⁶, the court stressed that

⁴ SCC OnLINE MP 2391

⁵ At first sight, based on first impression

⁶ 7 SCC 667

exaggerated and sweeping allegations necessitate careful judicial scrutiny. It further emphasized the High Court's inherent powers under **section 482 CrPC**⁷ to prevent abuse of process and to secure the ends of justice.

Similarly in **Mukesh Bansal v State of Uttar Pradesh (2022)**⁸, the Allahabad High Court expressed concern over the growing tendency to level generalized and exaggerated allegations involving all members of the husband's family. The Court observed that such practices adversely affect the institution of marriage and burden the criminal justice system.

In a significant observation, the court noted that although laws like Section 498A were enacted for protection, their misuse in certain cases has transformed them into coercive instruments of prosecution. To address this concern, the court proposed procedural safeguards, including a "cooling off period" and referral action. While such measures must align with constitutional principles and later Supreme Court guidance, the judgment reflects judicial acknowledgment of procedural imbalance.

2.2 SEXUAL HARASSMENT AT WORKPLACE AND FALSE ALLEGATIONS

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH ACT) was enacted to ensure a safe and dignified working environment for women. While the Act has empowered numerous victims, courts have also cautioned against its misuse, which may undermine its credibility.

In **Dr. Karunakar Patra v. State & Ors.**⁹, the Delhi High Court dealt with allegations that appeared retaliatory in nature, arising out of a prolonged neighborhood dispute. Upon examining the FIR, the court found a lack of substantive material and observed that the criminal process was being used as a pressure tactic. Consequently, the FIR was quashed.

The court underscored that false or motivated accusations not only violate the rights of the accused but also weaken the effectiveness of protective legislations by diverting attention from genuine cases of

⁷ Grants High Courts inherent powers to make orders to secure the ends of justice or prevent the abuse of court process

⁸ Crim. Rev. No. 1126 of 2022 (ALL HC)

⁹ (CrL.) 502 of 2021 (Del HC)

harassment, system from being misused as a tool of personal vendetta.

2.3 DOMESTIC VIOLENCE ACT AND PROCEDURAL FAIRNESS

The Protection of Women from Domestic Violence Act, 2005 was enacted as a civil remedial statute to provide immediate relief to women facing domestic abuse. However, judicial decisions indicate that its misuse in certain cases has raised concerns regarding dispossession and procedural imbalance.

In **Shamshada Akhter v Parvaiz Shab (2021)**¹⁰, the Supreme Court addressed a case where proceedings under the Domestic Violence Act were allegedly The Court permitted withdrawal of the complaint but imposed substantial costs on the **used to unjustified disposes the respondent from the share household**. Petitioner, emphasizing that the act must not be employed to harass or destabilize matrimonial relationships.

The court observed that the objective of the Domestic Violence Act is to protect genuine victims and not to aggravate matrimonial discord. It cautioned that disproportionate use of protective legislation may become counterproductive, thereby eroding the sanctity of marital institutions and undermining public confidence in the law.

2.4 JUDICIAL BALANCING OF PROTECTION AND DUE PROCESS

These judicial pronouncements collectively reflect an evolving jurisprudence that seeks to balance the protective intent of gender specific laws with constitutional guarantees of fairness and due process. Courts have consistently clarified that misuse of law, though not representative of all cases cannot be ignored where it leads to unjust consequences.

The judiciary's approach underscores that gender justice cannot be achieved through presumptive guilt or mechanical prosecution. Instead, a calibrated application of Law- grounded in evidence, procedural safeguards and constitutional values- is essential to ensure that protective legislations serve their intended purpose without resulting in injustice to any gender.

¹⁰ SLP(Crl.) No. 8415

ANALYSIS

The ramifications of False allegations within the legal framework are profound and multifaceted. They not only strain the judicial system but also inflict several **personal, emotional, and societal consequences** on the accused individuals. False accusations can lead to wrongful arrests, tarnished reputations, financial strain due to legal fees, and emotional trauma. The cases provided, particularly **“Dr. Karunakar Patra v. State and Ors.”** And **“Shamshada Akhter vs. Ajaz Parvaiz shah,”** exemplifies this consequence. In the former, attempts to manipulate legal mechanisms led to a substantial penalty imposed on the petitioner highlight the financial repercussions of false claims. In the latter, the court’s intervention emphasized that the misuse of the domestic violence act only disrupts lives but also erodes the foundational fabric of marital relationships.

The consequences of false allegations weigh heavily on the partners and husbands accused of various crimes. Beyond the **immediate legal repercussions, emotional toll** is often devastating. Falsely accused individuals experience profound stress, anxiety, and emotional trauma, straining relationships and leading to psychological stress. **Careers and reputations are marred**, affecting financial stability and social standing. In cases like **“Dr.karunakar Patra V. State and Ors.”** Where false accusations led to significant legal battles, the financial strain and mental anguish on the accused are evident.

Additionally, societal prejudice and stigma further exacerbate their plight, leading to isolation and strained familial relationships. Such cases not only undermine trust within relationships but also **erode faith in the justice system**, leaving lasting scars on the lives of the accused partners and husbands. The collateral damage inflicted by the false allegations highlights the urgent need for a balanced legal approach that safeguards the rights and dignity of all parties involved, ensuring justice and fairness in every case.

Examining the **case studies** mainly **“Dr. Karunakar Patra and Ors.”** And **“Shamshada Akhter Vs Ajaz Parvaiz Shah,”** offers **profound insights into the misuse of legal provisions**. In **“Dr.Karunpatra Patra V. State and Ors.”**, the court’s emphasis on the petitioner’s manipulative

withdraw attempts and the subsequent imposition of a substantial penalty shed light on the deliberate misuse of the Domestic Violence Act. Judges, in their remarks, highlighted the Act's intention to protect genuine victims, not to facilitate harassment or dispossession.

Similarly in "Shamshada Akhter Vs Ajaz Parvaiz Shah," the court's intervention was pivotal. Judges noted the abuse of legal processes, allowing the petitioner to withdraw the case but imposing a significant cost. The court's statement, "Domestic Violence Act has not been enacted to cause harassment but to protect legitimate cases," encapsulate the core issue. These judicial comments underline the necessity of vigilant scrutiny to preserve the efficacy of women's protection laws.

The comments made by the judges in these cases hold immense significance. They reflect the court's awareness of the delicate balance between empowering genuine victims and preventing the misuse of legal provisions. Judges, through their remarks, emphasized the need for courts to be discerning, ensuring that legal mechanisms are not weaponized for personal vendettas.

CONCLUSION & RECOMMENDATIONS

The discourse surrounding Gender justice in India has evolved significantly over the decades, shaped by constitutional commitments, social reforms movements, and progressive judicial interventions. Gender protective legislations have undeniably played a transformative role in addressing historical injustices and safeguarding women against violence, discrimination, and social exploitation. These laws reflect the state's constitutional obligation to ensure substantive equality and to protect vulnerable sections of society.

However, as demonstrated through judicial pronouncement and case laws analysis, concerns have emerged regarding the application of certain gender-specific provisions in practices. While misuse does not characterize the majority cases, court have acknowledge that in specific instances, uncritical enforcement, mechanical arrests, and lack of preliminary scrutiny may result in procedural imbalance. Such outcomes not only affect the rights of the accused but also risk undermining the credibility and effectiveness of protective legislations themselves.

The shift from protection to prosecution therefore, is not inherent in the legislative framework but arises from gaps in implementation and procedural safeguards. A justice system committed to constitutional values must balance the need to protect genuine victims with the equality important obligation to uphold principles of due process, personal liberty and equality before law. Gender justice cannot be achieved through presumptive guilt or disproportionate coercive action, rather it requires a calibrated and evidence based approach.

RECOMMENDATIONS

In order to preserve the protective intent of gender centric laws. While preventing their misuse, the following measures as proposed:

a) **Mandatory Preliminary Assessment**

Before initiating coercive criminal action. Law enforcement agencies should conduct a time- bound preliminary assessment to evaluate the prima facie credibility of allegations. This would help prevent frivolous or retaliatory complaints while ensuring timely relief in genuine cases.

b) **Strict Adherence to Judicial Guidelines:**

Guidelines laid down by the Supreme Court in cases such as **Arnesh Kumar v State of Bihar** must be strictly implemented. Non-compliance by investigating authorities should attract accountability to prevent arbitrary deprivation of liberty.

c) **Sensitization and training:**

Police Officers, Judicial Officers, and members of internal complaints committees should receive regular training on gender sensitivity, constitutional rights and procedural fairness to ensure balance decision making.

d) **Deterrence against Frivolous Complaints:**

While safeguarding access to justice, the legal framework may incorporate proportionate consequences for demonstrably false or malicious complaints, as recognized by judicial precedents. Such measures would deter abuse without discouraging genuine victims.

e) **Emphasis on Gender-Neutral Procedures:**

Rather than diluting protective laws, procedural safeguards should be strengthened to ensure neutrality in investigation and prosecution. This approach preserves legislative

intent while aligning enforcement with constitutional principles.

In conclusion, a truly equitable justice system must transcend binary perceptions of victimhood and culpability. Protecting women's rights and ensuring procedural fairness are not mutually exclusive objectives. By adopting balanced reforms and reinforcing constitutional safeguards, the Indian criminal justice system can uphold both gender justice and the rule of law, ensuring fairness, dignity, and equality for all individuals.

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