

# Identifying the Men's Right In Changing Social Order of India

Dr. Lokanath Suar<sup>1</sup> and Baibhaba Chinhara<sup>2</sup>

<sup>1</sup>H.O.D., L.L.M. Department

<sup>2</sup>2nd Year L.L.M. Student

G. M. Law College, Puri, Near Sri Vihar, Odisha.

lokanathsuar7@gmail.com and baibhaba1994@gmail.com

**Abstract:** *In current day scenario where advancement in every filed is rapidly growing and women safety and women dignity is at high priority in every sector there is a new treat which is affecting the idea of healthy society is men's dignity and safety. In this changing modern social order, the men are more vulnerable than the women and they are being at the centre lack of social and legal importance, where their rights are violated and they being abused in the society leading to a creation of society where men are not safe anymore. So, this paper identifies the lacuna in legal aspect and where it fails to enforce the rights of the men. The modern-day challenges that are being faced by the men society and how law protects them and what rights do they have in this changing social order. The socio-legal norms, status and provisions are checked through this research paper. In this paper a analytical doctrinal method is used and data are collected from both primary and secondary sources and it focus on identifying and clarifying the important legal rights that have been given to the men through different legal statutes, provisions and judicial pronouncements.*

**Keywords:** Men's Right, Changing social order, Dignity, safety.

## I. INTRODUCTION

Indian judiciary has paved the way for a substantive equality in Indian society where women are protected against discrimination, but the modern era sees a drastic change in the social fabric where men are no longer protected. Rather, they are discriminated and their rights are being violated by the same law which are made to protect the women from discrimination. The dual income homes and involved father system as taking place in society the social context also shifts to a more women oriented judicial system and ignore the men. So, these gender biased laws are now outdated as there is a total ignorance of contemporary male society in this changing social order. The marital law terrorism and the custodial exclusion are the main examples of this gender biased laws. So, there is an immediate need for the change in the judicial system and to move towards a gender neutral and right top reputation and dignified system where men's right are also protected against social abuse and legal discrimination upholding the constitution guarantee given under Art-14 & 21 of the Indian Constitution.

## II. OBJECTIVE

This study emphasis on identifying the men's right in this changing social order and the requirement for the gender-neutral law and also examine the implementation of the constitutional guarantees and the abuse that the men are facing right now in society due to legal lacuna.



### **III. METHODOLOGY**

The paper is a product of analytical doctrinal approach consisting of secondary data like NCRB reports with Hon'ble Supreme Court decisions while analyzing the gender-specific legislation with the modern-day social change and evaluate the legal framework to identify men's right.

### **IV. EVOLUTION FROM DOMINANT TO SUBSERVIENT**

The historical trajectory of men's right in India shows that the men enjoy an absolute power in the patria potestas system of India prevailed during the period of 1950 to 1980 where the social structure of family is dominated by the men as head of the family. The male are considered as the natural guardian and the only successor of family and responsible for the financial obligations of the family.

Due to advancement in judicial and legal system the era from 1980 to 2010 see an rapid change in the law and new gender-specific laws are introduced to protect the women from discrimination and provide them the equal rights with some upliftment and new law like Sec-498A IPC (now Sec-85 BNS), Protection of Women from Domestic Violence Act, 2005, neglect of due process to protect women from discrimination, equal share in property rights, Visakha Guidelines and numerous gender specific law are introduced but these laws are then used as weapon to threaten the male and to terrorize them.

As the time moves now these days a crisis has been seen as the social structure advanced and numerous changes are taking place in society to safeguard women are leading to gender-specific laws and creating a path for depriving men by threatening them with such laws. So in this era (2010-2026) men are more vulnerable and they became subservient in this gender specific legal framework.

### **V. PROCEDURAL MISUSE & THE RIGHT TO REPUTATION**

The law which are made to protect the women now became the weapons for legal terrorism against the men in this evolving social order. For example, use of Sec-498A of IPC (now Sec-85 BNS) to abuse the male partner in a marriage and take leverage in case of marriage conflicts. The systematic presumption of men violence and economic leverage, given to women, are creating social disparity. Also in litigations such as marriage, property conflicts always men are the one who face the social death due to easiness of filing FIR against them with presumption only, long before the actual trial. Ultimately leading to the deprivation of men from their right to reputation under right to life and personal liberty guaranteed under Art-21 of the Constitution. Though the Hon'ble Supreme Court has recommended protective measures in Arnesh Kumar Case after recognizing the males subservient stage evolution in automatic arrest process but the lack of Men's commission hinders all legal protection. Though judiciary try to help the men there is no authority to keep a check on abuse of law against men.

### **VI. RE-EVALUATING MEN'S RIGHTS WITHIN INDIA'S CHANGING SOCIAL ORDER**

The modern laws like, new criminal codes (BSA/BNS/BNSS of 2023), gender-neutral family laws and constitutional protections all tried to implement a gender-neutral law after recognizing the changing social order and abuse on men in society and are trying to prevent from weaponizing the women specific laws. Art-14 & 21 of the Indian Constitution gives an fundamental structure for men's right where Art-21 include the Right to reputation and dignity as fundamental rights and Art-14 advocates for the equal protection of the law to prevent the gender biased system. These provisions give the respective High Court of different state the power under Sec-528 of BNSS, 2023 to dismiss the malicious FIRs, which are made with ulterior motive to prevent terrorizing and exploitation in matrimonial cases. The Sec-41A of CrPC (now Sec-35 of BNSS) plays a crucial role to safeguard against the misuse of arrest, as offenses which carry a sentence for less than 7 years in such cases police instead of making a mechanical arrest, need to give a Notice of Appearance such as, in Sec-85 of BNS i.e. marital cruelty. Also, the Arnesh Kumar guidelines play a crucial role in arrest procedure leading to the stoppage of spouse harassment. Sec-13(1)(ia) of the Hindu Marriage Act gives males right to file for divorce on the ground of mental cruelty. While Domestic Violence Act give leverage to the women



being a gender specific law. Courts are now acknowledging the false criminal allegation made against males and also considering that it is cruel to separate father from his child. Also, there are two sections that are Sec-24 & 25 of Hindu Marriage Act which enable a husband to demand from his wife maintenance and alimony when he doesn't have an earning but his wife does. Beside these laws there are some protective umbrellas for men, whose reputation is harmed due to intentional false allegations under Sec-356 of BNS i.e. Defamation and Sec-248 of BNS i.e. False allegation of offences. Also, the mediation act helps males to go for pre-litigation mediation providing a non-judicial resolution mechanism as an opportunity to state their side and make other party understand his part prior to initiating criminal prosecution.

Case Law	Legal Focus	Judicial Principle Established	Relevancy in 2026 Social Order
<i>Arnesh Kumar v. State of Bihar</i> (2014)	Liberty & Arrest	Prohibited "automatic arrests"; mandated police accountability.	Essential shield against "Legal Terrorism" and arbitrary detention in matrimonial rifts.
<i>Joseph Shine v. Union of India</i> (2018)	Constitutional Equality	Struck down Adultery (Sec 497); affirmed gender neutrality in crime.	Validates Article 14 by dismantling patriarchal laws that viewed men as sole aggressors.
<i>Rajnish v. Neha</i> (2020)	Financial Parity	Maintenance is not absolute; requires financial disclosure.	Prevents economic extortion by accounting for the rise of dual-income households.
<i>Yashita Sahu v. State of Rajasthan</i> (2020)	Custody & Parenting	Focus on "Best Interests of the Child" over maternal preference.	Recognizes the "Involved Father" archetype as an equal emotional caregiver.
<i>Prakash Singh Phool Singh v. State</i> (2023-24)	Right to Reputation	Empowered Courts to quash frivolous cases at the threshold.	Protects men from "social death" and secures Article 21 rights against malice.
<i>Atul Subhash Case / Recent Suicide Inquiries</i> (2024-26)	Right to Life & Mental Health	Highlighted the impact of procedural harassment on male mental health.	Drives the demand for a National Commission for Men and gender-neutral suicide prevention laws.
BNS Application (2025-26)	Procedural Continuity	IPC-era safeguards apply to new BNS/BNSS provisions.	Ensures the transition to new codes doesn't dismantle existing protections for the accused.



### KEY CHALLENGES

Following are the key challenges which needs to be addressed in order to prevent the men abuse and identifying men's right:

1. **Legal Lag:** Indian legal system still focuses on the women discrimination and turn its face for men's right in this changing social order.
2. **Institutional Stigma:** Due to Patriarchy form of society that prevails in India from a very long period of time the law still unbale to identify the men's vulnerability.
3. **Weaponization of protective Law:** The growing number of marital disputes resulting in social death due to reputational harm and legal terrorism using women specific law.
4. **Maternal bias:** The legal leverage given in marital cases and the legal favouritism for women in custodial dispute disregards of the child's entitlement to both parents.
5. **Absence of Safety Nets:** Domestic violence has no remedy for male aggrieved persons and lack of National Commission for Men.

### VIII. FINDINGS

The study reveals the significant conflict between India's legal system and the changing social order in following image:



### IX. SUGGESTIONS

Following are the suggestions for a proper implementation and safeguard of the men's right in this changing social order:

1. **National Commission for Men:** There is an urgent need for the establishment of the National Commission for men to keep an eye on male abuse, gather information on abuse and suicide of men and recommend policies and reforms.
2. **Gender-Neutral Laws enactment:** The Domestic Violence Act and marital act needs to be gender neutral so men are able to get equal remedy as victim of domestic violence and marital cruelty.



3. **Penalties for Legal Terrorism:** Penalise the persons who are using legal system to terrorise male like in marital cases and use other gender specific law as a weapon.
4. **Right to Reputation:** To safeguard the Right to Reputation guaranteed under Right to Life and personal Liberty under Art-21 of the Indian Constitution, there is a need for the robust legal system to check on the false allegations and other gender biased cases.

#### **X. CONCLUSION**

The judiciary now need to move from a protective gender specific sphere to a substantive neutrality where both men and women get same legal rights. The study shows that there is a legal lag where gender specific laws play a weapon to terrorise the innocent male and deprive him from his legal and fundamental rights. So, there is an urgent need for the structural change in Indian legal system to provide constitutional fundamental guarantees given under Art-14 & 21. The Indian legal system may guarantee a fair and impartial judicial system that upholds the dignity of all people, regardless of gender, by formalizing the rights of men, tackling the threat of Legal Terrorism, and creating a National Commission for Men.

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