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## Reassessing gender justice: A socio-legal study of the evolving rights of men in the context of gender equality and gender neutrality

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### ABSTRACT

In the last century, there has been a noticeable swing in the cultural dynamics of the society, because of efforts of several stakeholders leading women movements, the idea of upliftment, empowerment and protection of women has embedded into the general psyche of the public at large. These movements must continue in order to give voice to those in need of it, but there is a segment of the female population which is distorting the original idea of feminism, converting it into an anti-male rhetoric and misusing the institutional & legal protection that was initially created for the unrepresented, disenfranchised and subjugated women.

There is ample evidence of misuse and lack of legal & institutional support for men facing legal or domestic issues, i.e. large number of cases involve fake accusations against men and several judgments overturned due to lack of credible evidence. Courts have highlighted the problem of weaponization of anti-dowry laws, child protection laws, Section 498A (IPC), domestic violence laws, etc., in matrimonial disputes to manipulate custody battles and alienate fathers. The Maharashtra State Human Rights Commission (MSHRC) has considered forming men's welfare boards or Equality Commissions that cater to problems of both genders.

The study questions whether the notions of gender neutrality and gender justice be viewed from the

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### Keywords

gender justice, men's rights, gender neutrality, equality, socio-legal, substantive equality, affirmative measures, criminal law, family law

perspective of the rights of men in today's era. The research also examines the current legal protections for men/husbands in India and evaluates the potential need for establishing gender-neutral institutional & statutory framework.

Advocating for men's rights within gender-neutral and gender-equal framework is not contradictory – it is essential for building a fairer, more inclusive society for everyone.

## Chapter 1 – Introduction

### 1.1 Background and Context

Universal gender justice movements were centred around women's suffrage and civil rights, addressed structural inequalities across public and private spheres, encompassing reproductive rights, workplace equality and protection against gender-based violence. Efforts of civil society, private & public organisations resulted in socio-legal reforms, i.e. the changes made in laws & legal systems in response to judicial decisions and shifts in social attitudes, demands & needs of the society. While the socio-legal reforms brought about significant changes in the society, thereby affecting men's role in family, workplace & social set-up, focused more on gender equality, rather than gender neutrality, i.e. the idea of gender justice, which initially started off by addressing historical disadvantages to women, later evolved into framing and implementation of “only-women-centric” or gyno-centric laws & policies. According to the author Robert Chinsky Matuson –

“Many people mistakenly believe that harassment is limited to females”. In post-globalization era, men are not just perpetrator, but also receiver, i.e. of sexual assault, of cruelty, of rape, of frivolous complaints etc. The absence of legislative will show that “protecting men is not the mandate of the state anymore”. The recent example of the divorce proceeding between Hollywood actors John Depp and Actress Amber Heard in which Heard asserted that Depp had mishandled her, which Depp denied. Depp sued Heard for causing damage to his reputation by making false charges of domestic violence on him. On June 1, 2022, Fairfax County Circuit Court, Virginia ruled that Heard's claims of ‘Sexual Violence’ and of ‘domestic abuse’ were false. The court awarded Depp amount of \$10 million in reparations and an amount of \$5 million in punitive compensations from Amber Heard.

In India also, gender justice had predominantly focused on the rights of the women, resulting in noteworthy legal reforms which address gender-based discrimination. These laws are a necessity, especially for protecting women from vulnerable sections of the society, but have also been critiqued for overlooking the rights and experiences of men. With growing instances of misuse of protective gyno-centric laws, by certain sections of women population, the need to reassess the concept of gender justice from the perspective of the rights of the men has gained significant heft. Cruelty against husbands, which encompasses physical, mental, economic, legal, verbal, sexual and emotional cruelty, is now an emerging problem in India. The

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lack of any legal or institutional support for men's rights has also been pointed out. We need to ensure that men's rights are equally protected, particularly in key areas like family law, criminal justice and employment.

## 1.2 Statement of Problem

Gender inequality continues to be a serious problem even in developed countries like Denmark, UK, Germany, where roles are still compartmentalized to both genders. Gender based violence affects disproportionately larger number of women than men, and women still struggle with a gender pay gap of more than 15%. To remedy this, laws & policies have been enacted, however, these could be seen as gyno-centric, i.e. they focus solely on women, while the issues faced by men are almost never brought to light. The gender norms underlying our society perpetuate the view that child abuse is perpetrated almost exclusively by men, while women are not capable of harming a child.

Another reason is also the radical feminist ideologies, fostering the concept of gender oppositionality, dividing the world into two distinct groups of men and women which are placed in a confined hierarchy in relation to each other, painting an anti-male rhetoric and picturing men as the main cause of women's disadvantaged position in the society. This leads to perpetuation of gender stereotypes, and also contributes to the creation of the perception of man as the wrong-doer and woman as his victim. Such social aligning of men against women can also be detected in laws and guidelines. A statement by Angela Dworkin, a radical feminist thinker,

that "all rapists, wife-beaters, etc represent the interests of all men" not only reinforces the idea that all men are the same, but also demonstrates that men are always seen as guilty, automatically perceiving men as offenders solely because of their sex leads to a situation in which their right to be presumed innocent may be subverted.

While protective laws for women exist, at times overshadowing & disregarding the vulnerabilities of the other gender, a complete lack of structured legal recognition of men's rights in different domains expose them to maltreatment.

Examples of higher rates of workplace fatalities, suicides, underdiagnosed mental health issues, discriminatory family law outcomes in child custody & maintenance cases giving preferential treatment of mothers in custody disputes, where fathers are often vilified and seen as "forced suppliers". Another example is criminalization or overreach of domestic violence statutes, have been statistically recorded, which prove that men face systemic neglect with respect to recognition of rights & experiences. These instances showcase a constant tension between protective legislation for women vis-à-vis the legal vulnerabilities & social stereotypes faced by men, which adversely impacts their access to justice.

We need the shielding laws for women, but simultaneously, we also need protective laws for safeguarding men's rights. The current legal framework

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Note 13

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needs to be critically analysed from the point-of-view of gender neutrality.

## Chapter 2 – Theoretical Framework and Conceptual Foundation

The terms 'gender' & 'sex' are used interchangeably. However, there is a difference between the two, pointed in 1968 by Professor Robert Stoller, when he used the terms 'sex' to pick out biological qualities and 'gender' to pick out the amount of femininity and masculinity in a person displayed. Ann R. Oakley, also defines the term 'gender' as "the parallel and socially unequal division into femininity and masculinity," in which she differentiates from the term 'sex' which is a biological division of female and male. There are thus two 'sexes' (male and female) and two 'genders' (masculine and feminine). In other word, sex is an assign status because a person is born with it, but gender is an achieved status because it must be learned. The concept of gender denotes the perceived ideas about male and female and is the socially constructed definition of men and women. It is understood as the cultural construction of sex. Gender is thus understood as the relationship between sociological sex and behaviour.

Gender justice is a socio-legal concept is not only restricted to the upliftment or fight for women's right, but also represents men. Several Indian laws, framed to empower women, have now become extremely gynocentric, thereby being discriminating to men, leading to untruthful suits and even suicide. Men are also sufferers

of domestic violence and sexual assault, but their victimization is not taken seriously due to predominant perception towards men, such as the pre-conceived notions that men are daring, withstand greater pain and are more capable of self-defence.

Gender Injustice arises where inequalities and inequities exist based on gender status, which exposes discrimination, oppression, subordination, domination, bias in treatment of men, women, and transgender in identity, dignity, attitude, language, work place, role in family, society, and religion, etc. Gender injustice like racism, is a structural sin that must be acknowledged and eliminated.

Substantive v Formal Equality – A formalistic equality model mandates identical treatment regardless of circumstances, whereas substantive equality permits differential treatment to dismantle structural barriers, recognizes social stratification, differential starting points and the need for tailored measures to achieve meaningful parity.

Gender Equality is the state where individuals of all genders have equal rights, responsibilities, resources and opportunities, while also recognizing that different genders may require different approaches to achieve equitable outcomes due to historical structural disparities. The term "gender equality" means equivalent rights, responsibilities and opportunities for both genders. The interpretation of the term "equality" need not be that men and women will become the same, but it should be interpreted and applied as such that the rights, responsibilities and opportunities available should not depend on their gender affixed to them

upon birth.

Gender Neutrality denotes legal rules or policies that do not distinguish based on gender and seeks to eliminate discriminatory distinctions based on gender in language and application, which aims towards fair treatment by treating all individuals the same, regardless of gender. The goal of gender neutrality is to avoid any gender-specific distinction and use language, rules, practices that do not show favouritism on the basis of gender, and to treat individuals, irrespective of their gender identity, in a fair and inclusive manner.

### **Chapter 3 – Constitutional and Legal Framework in India**

#### **3.1 Constitutional Provisions**

The constitution of India has attempted to discard all gender discriminations, gender equality and liberty has been made fundamental rights. Every individual, regardless of gender, is protected by constitutional rights such as the right to life and personal liberty (Article 20-21). Article 14 promises equality before law and equal protection of law to all persons; Article 15(3) permits the state to legislate special laws specifically for women and children, which indirectly means men do not always get similar protections.

#### **3.2 Protective Laws and Potential Gender Bias**

The current legislative structure sings an anti-male rhetoric and these laws, with the help of judicial interpretations, evolved into gyno-centric legal provisions, i.e. several provisions of family laws,

domestic violence, maintenance & alimony laws, custody laws, Section 498A (IPC, 1860) are some of the “anti-male” laws still in existence, i.e. this section was originally designed to protect women from domestic abuse and dowry harassment, but is critiqued from being misused by some women to harass husbands and in-laws. This misuse has also been acknowledged in various judicial decisions. Some safeguards (refer to Arnesh Kumar guidelines mentioned below) which have been introduced are – (i) arrests are no longer automatic and (ii) Family Welfare Committees are sometimes formed to investigate before FIRs.

Under personal and maintenance laws, husbands can seek divorce on grounds like cruelty, adultery, desertion, mental illness, or conversion and are legally obligated to provide maintenance to wives (even estranged or separated), but there is no reciprocal law for men to seek maintenance unless they are incapacitated.

The Domestic violence Act is explicitly gendered, as it protects only women, and there is no equivalent law for male victims and they cannot even file case under the current legislation even if they face domestic abuse, though men can resort to general penal provisions like “hurt” or “grievous hurt” under Section 114-116, BNS, 2023. Even the newly drafted criminal legislations, i.e. the Bharatiya Nyaya Sanhita (BNS) of 2023 and Bharatiya Nyaya Suraksha Sanhita (BNSS) of 2023 have not been amended to incorporate the gender-neutral policy.

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Men often face bias in custody battles and maintenance disputes. Legally, fathers are the 'natural guardians' under the Hindu minority and Guardianship Act, 1956, but courts frequently grant custody to mothers, especially for young children. Fathers are given visitation rights but rarely full custody. Men can also claim maintenance under Section 24 of the Hindu Marriage Act if they lack means due to illness or disability – though courts can deny it based on circumstances like remarriage or adequate income.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) is another important law that addresses the workplace harassment which is sexual in nature. However, the POSH Act only protects women from sexual harassment and does not provide any recourse for men who face sexual harassment.

There is need for gender neutral policy-making and/or Gender Equality Commission to promote fairness for all genders, i.e. to make laws like domestic violence, family laws, Section 498A, etc, equally protective and just.

### 3.3 Legal relief available to husbands

Several domestic violence cases and sexual harassment allegations that have been used a tool by some for individual gains, misusing the very law to protect them, but there are also legal provisions which act provide some relief to the male victims of cruelty and harassment – (i) Section 13 of Hindu Marriage Act

(HMA), 1955; (ii) Section 10 of Indian Divorce Act, 1869; (iii) Section 27 of Special Marriage Act (SMA), 1954; (iv) Section 32 of Parsi Marriage and Divorce Act, 1936; (v) The affected spouse may take expenses for litigation (section 24) and maintenance (section 25) from the wife under Hindu Marriage Act, 1955; (vi) Husband takes a decree of restitution conjugal rights (section 9) and judicial separation (Section 10) from the court under the Hindu marriage Act, 1955 The husband can file counter-cases against his wife; (vii) The affected spouse can also file a case against the other spouse on the ground of conspiracy (under section 120B I.P.C., 1860) which is committed against him and his family members; (viii) If the wife gives false evidence against her husband, he files a case under section 191 of I.P.C., 1860, on the grounds of providing false evidence; (ix) If the wife harms the reputation of the husband and his family members by dragging them to court in a false case, then the husband can file the case of defamation under section 500 of I.P.C., 1860; (x) Affected spouse can also file a case u/s 464 of the IPC, 1860 if he finds that his wife is making a false document and producing before the court; (xi) If the husband finds that the complaint filed by his wife is false and bogus, he can also file a complaint under section 227 of Cr.P.C. and state that the complaint under section 498A is bogus; (xii) If the wife makes a scene, breaks the objects in the matrimonial home, and falsely claims that the husband tortured her emotionally, physically and mentally. He can file a suit of recovery of damages under section 9 of C.P.C., 1908, against his wife; (xiii) In cases of false allegations, one can be charged under Sec 209 of IPC so that it stands as a prevention against untruthful allegations.

## Chapter 4 – Evolving Rights of Men

### 4.1 Judicial Pronouncements

In India, several instances have been reportedly observed of systemic bias in custody decisions, alimony and maintenance. Courts increasingly use gender-neutral best-interest standards, yet social expectations and economic disparities can influence outcomes. Reformers argue for procedural fairness, fine-grained transparency in judicial reasoning and access to legal aid.

In this 1987 judgment, the Delhi High Court held that if a wife declines to copulate, without any reason, with her spouse, it leads to cruelty against the husband.

In 1995, Bombay High Court, with reference to certain instances, recognized that Section 498A is used to defame the guiltless men.

In 2003, Justice Malimath Committee Report consisting of reforms in criminal justice system, recognized that the severe law u/s Section 498A of IPC, rather than serving victims, has become a source of nuisance and extorting the husbands, and suggested that the offence be made bailable and compoundable.

In this 2004 case, the wife made a false complaint against the husband after inflicting injuries on her own body. In this case, the husband was acquitted, and criminal proceedings against the wife were initiated. On the basis of cruelty done by the wife, the husband was

entitled to a divorce decree.

In 2005, in the Sushil Kumar Sharma case, the courts for the first time acknowledged the misuse of Section 498A of IPC, but upheld the constitutional validity of the provision, stating that the mere instances of misappropriation do not make a law unconstitutional. The court recognized that the law was enacted to combat cruelty against women by husbands and in-laws, including dowry deaths, however, the need for caution by investigative agencies and courts was required to avoid misuse and to protect the innocent. In this 2005 case, the family court held that if the wife does not do any domestic work, does not care about the husband, abuses her in-laws and her husband and fights regularly, it amounts to cruelty against the husband and his family members, and the husband is permitted to get a divorce.

A 2007 Judgment related to divorce on the ground of mental cruelty. The court, in this case, gave an in-depth explanation of the concept of “cruelty” by citing numerous instances and held that mental/psychological cruelty is a state of mind, and concluded that individual decision of refusal to cohabit for, without there being any physical incapacity or valid reasons, amounts to mental cruelty. The court also opined that having individual decision of wife/husband for not having child after the marriage also amounts to cruelty.

be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Anil Bharadwaj v. Nimlesh Bharadwaj, AIR 1987 Delhi 111; (1986) ILR Delhi 383.

Pandit, R. B. (1995). Wife's cruelties and her right to maintenance. Cri.L.J, 159.

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Raj Talreja v. Kavita Talreja, Civil Case No. 56/2000, Family Court, Udaipur.

Sushil Kumar Sharma v. Union of India, (2005) 6 SCC 281.

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Smt. Sangeeta Shukla v. Ganesh Shukla, Civil Suit No. 74-A/2005, Principal Judge, Family Court, Raipur, Jharkhand.

Samar Ghosh v. Jaya Ghosh, AIR ONLINE 2007 SC 347; (2007) 4 SCC 511.

Chandrabhan v. State, Bail Application No. 1627/2008, order dated August 4, 2008.

Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363.

Mrs. Deepalakshmi Saehia Zingade v. Sachi Ramesh Rao Zingade, AIR 2010 Bom 16; (2009) III Bom LR 4059; (2010) I Mah LJ 10.

Arnesh Kumar v. State of Bihar, 2014.

In 2008, in a case the court gave directions to police authorities, whereby the court observed that, (i) FIR should not be recorded in routine method; (ii) Every effort should be made to first carefully inspect the grievance before registering the FIR; (iii) Before registering FIR all essential actions should be taken to settle the matter through conciliation; (iv) Arrest must take place after due examination of the matter and lastly, no arrest to take place without the sanction of DCP.

In 2010, Supreme Court in a case, stated that a serious relook into the provisions is warranted by lawmakers. In this 2010 case, the wife filed a lawsuit against her husband and stated that her husband has a girlfriend. This contention of the wife is proved to be false. The Court held that the false case instituted by the wife could be ground for cruelty against the husband.

The 2014 Arnesh Kumar guidelines were laid down in this case, where the Supreme Court acknowledged the abuse of Section 498A of the IPC, 1860 and noted that this provision is misused as weapons rather than shield by disgruntled wives. The court gave directions to police officers regarding arrest according to Section 41, 41A and other essentials of the Code of Criminal Procedure, 1973 (CrPC). The court said that these directions shall apply to the case under Section 498A (IPC) or Section 4, Dowry Prohibition Act, 1961, and also to such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine. The court also directed to ensure that police officers do not arrest

the accused needlessly and Magistrate do not authorize detention informally and automatically.

In 2014, Supreme Court in this case held that if any spouse wrongfully alleges spouse and their family members, this would lead to cruelty. A division bench that the High Court shall frame directions adhering to guidelines given in this case.

In this 2014 case, the wife made indecent allegations against her father-in-law and dragged the husband and his family members into a false case. The wife was misusing section 498-A and filed a suit against them. Court held that the act of the wife caused psychological cruelty to the husband and his family members, and he is entitled to get a divorce.

In 2015, a case came before the Delhi High Court, where the petitioner filed a petition to quash an FIR registered against him under Sections 354/606 IPC by a woman with whom he had a 5-year live-in relationship but did not intend to marry. The petitioner claimed the FIR was lodged with malicious intent to prevent him from travelling, as the complainant was upset about him ending their live-in relationship to marry someone else. The court held that in a live-in relationship, also referred to as “walk-in and walk-out”, no legal bond is created among the parties. Those who do not wish to enter in such relations may enter in the bond of marriage, where the parties are not allowed to simply break the bond and have legal obligations.

In 2015, the Delhi High Court in this case dismissed the complaint of domestic violence filed by a woman residing in South Delhi, stating that she fabricated and invented various

claims and hid essential facts so as to harass her husband and in laws.

In 2015, in this case, the wife filed a wrong case against her husband and his family members under section 498-A, I.P.C., and the Court acquitted all the respondents. The Bombay High Court held that the husband was permitted to seek dissolution of marriage on the grounds of cruelty in the Hindu Marriage Act, 1955 against the wife.

In 2016, The Gujarat High Court in a case, held that there are many laws which are in favour of the distressed wife, are being misused by stating incorrect fact, adversely impacts administration of justice.

In this 2016 case, the Supreme Court held that if a wife uses force or coercion upon her husband to leave his parents, who are dependent on her husband, then it amounts to cruelty by the wife against her husband.

Therefore, this will be the decisive ground for divorce.

In 2017, the Supreme Court delivered another landmark decision recognizing the misuse of Section 498A of IPC, leading to wrongful implication of innocent family members. The court also issued guidelines for handling Section 498A complaints to ensure fairness in the justice process.

In 2018, Supreme Court decriminalized adultery, which was applied equally to both genders.

In this 2018 case, Court held that educated women are filing a case of the 498A against their husbands and family members. This section has protected the women from their cruel husbands, but now they are misusing it against their husbands.

In this 2021 case, where the wife made defamatory

complaints to the husband's superior officers and the complaint affected the husband's career, and the Hon'ble Apex Court ruled that it amounted to 'mental cruelty' because due to such allegations, the husband had faced the consequences in his life and career. The husband was granted divorce by the Family Court on the grounds of cruelty.

In this 2022 case, the wife accepts the job in a different place from the marital house without the permission of the husband, and is unable to perform her marital duties. The court held that the wife had withdrawn the marital duties without reasonable excuse, which amounted to cruelty against the husband.

In 2023, the Punjab and Haryana High Court held that if the wife is harming the career and reputation of her husband by making complaints against him to his seniors, then it will amount to psychological cruelty.

In 2024, in the case of Rinku Baheti, the Supreme Court, while exercising its powers of extraordinary jurisdiction under Article 142(1) of the Constitution of India, granted a decree of divorce, i.e. without the nine months waiting period, on the grounds of irretrievable breakdown of marriage and the determination of permanent alimony. The court observed that there was no possibility of reconciliation and enduring the marital bond would amount to needless adversity.

Recently, the Delhi High Court delivered a judgment pointing out the misuse of maintenance & alimony provisions in the family law. In this case, the husband, who is a practising advocate and the wife, who is 'Group A' officer of the Indian Railway Traffic Service, had been married for 14 months and had no children. Post the

dissolution of marriage, the wife, an independent well-earning woman with an established career, filed a case demanding Rs. 50 lakh alimony from the husband. The court held that a financially independent spouse cannot claim permanent alimony, as it is meant for social justice and to prevent destitution, not for personal enrichment or equalizing wealth.

#### 4.2 Statistical Data –

(i) Low conviction rate in Delhi (2021-25) – Only 23 convictions out of 9950 cases (0.2%) , nearly half were quashed; (ii) Supreme Court overturned a 26-year legal imprisonment under 498A due to lack of credible evidence ; (iii) Several courts in Delhi in August 2025 have highlighted the problem of vague, sweeping accusations harming entire families.

Report of the National Crime Records Bureau (NCRB) depicts that in every age group, men commit more suicides than women and in 2010, 61453 males committed suicide as opposed to the 31,754 by women.

According to the crime report in India 2020, 1,11,549 cases were registered under Section 498A, 5,520 cases were closed by police because of incorrect allegations, and overall, 16,151 cases were closed by police because the cases were untrue or there was a mistake of fact or law or civil dispute etc. Approximately 14% of cases were closed by police for not finding any substantive merit in the case. The court tried over 18,967 cases, out of which 14,340 cases led to acquittal, and 3,425 cases led to conviction. The acquittal percentage (approx. 75%) is higher than the conviction percentage (approx. 18%).

According to the Indian Journal of Community Medicine, in a survey conducted by them on 1000

married men, 51.5% of men faced violence by their wives, of which 51.6% was emotional and 6% was physical violence . All these numbers portray that domestic violence is not a gender-based offense. These numbers are too good to be true and do indicate a dire need for laws to be made in favour of men.

#### 4.3 Is there a need for Men's Commission in India?

India has a National Commission for Women (NCW) with powers to investigate complaints and recommend policy, but there is no equivalent body for men. Persons advocating for men's rights also claim that there is a need for a National Commission for Men as well or a Gender Equality Commission, which can provide access to justice to all victims, irrespective of their gender, with the help of gender-neutral policy-making and mostly, to provide a platform for male victims of domestic violence, sexual harassment, false accusations. There is also growing need for research and policy recommendations related to men's health, education and workplace issues, to ensure legal balance in family law, custody, maintenance and alimony.

There is no statutory National Commission specifically catering to the rights of men, Maharashtra State Human Rights Commission – has considered forming men's welfare boards. We also need a men's commission or an Equality Commission – with powers to investigate complaints and recommend policy. The rationale behind the establishment would be – (i) It would provide a platform for men to report complaints related to dishonest allegations, domestic violence and other legal injustices; (ii) Advocate for gender-neutral laws; (iii) Raise awareness about the issues men face, to ensure gender justice; (iv) To provide a body that could advise the government on policy and legal reforms to ensure that men are left behind in the pursuit of justice. We have a Statutory national Commission for Women, but there is no equivalent body for men. The demand for National

Commission for Men is justified as it will ensure gender-neutral policy making, a platform for male victims of domestic violence, sexual harassment, false allegations; ensuring legal balance in family laws, custody, maintenance & alimony laws; research and policy recommendations related to men's health, education, and workplace issues. – In July, 2023, the Supreme Court declined a PIL seeking creation of a National Commission for Men, saying the plea presented a “one-sided picture” and lacked balance context. – NCRB data (2021): Married men accounted for 72% of total suicides; 33.2% due to family problems, 4.8% marriage-related. – Proponents argue for gender-neutral reforms, compensation for false cases, mandatory timelines, and institutional support.

#### Chapter 5 – Comparative and International Perspectives

The International human rights regime defines both discrimination and gender equality, but the instruments, to a larger extent, continue to prioritize redressing historical discrimination against women as a matter of achieving substantive parity. However, gradually the international bodies have started emphasizing non-discrimination on the basis of sex, recognizing both formal and substantive equality, i.e. treaties and soft-law instruments engage men's issues, for instance the right of fathers to participate in child care, recognition of male victims of gender-based violence, etc.

The Preamble of the Charter of the United Nations emphasises that both genders should be awarded equal rights. The UN's Entity for Gender Equality and the Empowerment of Women define the concept of 'gender equality' as – “Equality of rights, responsibilities and opportunities of women and men and girls and boys”. This concept entails due consideration paid to the needs

and interests of both genders, which also contributes to the acknowledgment of the existence of different groups of men and women (and thus accommodates for protection against intersectional discrimination). According to the above-mentioned definition, the concept of gender equality is not equivalent to right of women only, but it encompasses the rights of men to the same extent. The idea of gender equality has been promoted by means of gender mainstreaming, the plan of action established during the Fourth United Nations Conference ON Women in Beijing in 1995. It is a policy which involves an assessment of the consequences of all processes and programmes, including legislative ones, for men and women, wherein gender equality is the ultimate goal to be achieved. Discrimination, according to the definition endorsed by the Council of Europe, is “treating people in analogous situations differently, or people in different situations alike, without objective and reasonable justification”. Discrimination can be direct, i.e. a law Or a policy may directly place a particular group at a disadvantage, Or it can be indirect in that a seemingly neutral and general policy may yield different results for different groups. A number of regional and international documents aim to eradicate discrimination on the grounds of sex, whether in general, such as Article 21 of the Charter of the Fundamental Rights of the European Union (EU), or focusing on women, as in the case of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), or targeting an explicit field, for example the Recast Equal Treatment Directive. Even though, in theory, discrimination on the grounds of sex can be perpetrated against both women and men, there are no legal instruments concerning men as the victims. Usually, with regard to sexual offences, man is imagined as perpetrator and woman as victim, which strengthens

women's subordinate social position, which is also due to the reinforced view of women as passive and submissive. The case law of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and that of the International Criminal Tribunal for Rwanda (ICTR) considers the actus reus of rape to be the vaginal, anal or oral penetration by the penis or any other object. Such a definition is thus gender-neutral, allowing for men to be seen as victims, and women to be treated as perpetrators. This conception of rape acknowledges that men can be the victims of rape, however, it does not encompass women in the category of perpetrators.

In UK, judges earlier followed the 'tender years doctrine', wherein custody of children, under seven years of age, is given to mothers. Later, judicial interpretation expanded to giving preferential treatment to mothers throughout the whole childhood of their offspring, perceiving men incapable of providing adequate care.

In United Kingdom i.e. in England, Wales and Ireland, the crime of domestic violence is seen as gender neutral as the act uses words such as 'Person' and 'Vulnerable Adult'. The law here covers physical injury, harassment, assault, molestation and homicide under the umbrella of domestic violence.

In USA, the concerned law for domestic violence is the 'Violence against Women Act, 2005'. Even though, from

name it appears to protect only women, but the law surprisingly extends its protection to men as well, through the principle of 'non-exclusivity'. The legislation takes into its ambit domestic violence, dating violence, sexual assault and stalking as an offence.

Most countries guarantee paid maternity leave, the US is one of only two countries in the world which offers paid parental leave to new parents, targeting gender discrimination. International Labour Organization, though does not mandate paternity leave, but suggests the possibility of the provision thereof in its recommendations.

## Chapter 6 – Final Reflections

### 6.1 Recommendations and probable solutions for future policy & legal reforms

- Constitutional, legislative and institutional reforms needed, i.e. to amend legal drafting to adopt gender-inclusive language in victim-protection legislation; mandate training for judiciary, police and social service on gender dynamics and implicit bias; expand legal aid targeted to economically vulnerable fathers and men who are victims; ensure occupational-safety enforcement; adopt and incentivize gender-equal parental-leave models.

- Policy & programmes needed; i.e. funding of male-targeted mental-health and suicide prevention programs; creation of

non-gendered shelters and support services & ensuring parallel services for male victims; launching public campaigns to destigmatize male help-seeking and caregiving roles.

- Revisiting domestic violence statutes – domestic violence laws must be gender-inclusive in language and practice while retaining the ability to address patterns of coercive control that disproportionately affect women. Reforms may include – explicit recognition of male victims, gender-neutral training protocols and resource allocation to ensure services for all victims.
- Sexual offences law reform – criminal law statutes should protect all victims while maintaining definitions and evidentiary standards that reflect the distinctive harms of sexual violence and the realities of under-reporting.
- Custody and maintenance law reforms required to avoid stereotyping be sensitive to both genders' economic vulnerabilities.
- Safeguards against false reporting – addressing false allegations requires careful policy to implement penalties for malicious reporting.
- State should ensure that there should be gender-inclusive services & protections, i.e. support services for victims of violence, funding shelters, counselling for male victims, training law enforcement to respond without gender bias and incorporating male

victimization in public-health campaigns.

- Reforms needed in family law, i.e. gender-neutrality to be applied while enforcing the 'best-interest-of-the-child' standard, and judges should be trained recognize implicit bias; legal aid expansion for low-income fathers to address asymmetry of resources; encourage mediation and parent-focused intervention, designed to safeguard children and support parental involvement; need for parental leave and care policies to be gender neutral and non-transferable to promote caregiving by men.
- Workplace & social policy reforms – prioritising enforcement, worker representation and reinforcing occupational safety regulations; investing in male-oriented mental health outreach, destigmatizing help-seeking and integrating services into workplace.
- Reforms needed with regard to criminal justice and due process, i.e. ensuring robust investigatory standards that minimise wrongful convictions while preserving victims' access to justice; training police & prosecutors on gender dynamics, including male victimization and vulnerabilities to false allegations; supporting restorative justice alternatives.
- Standardize the definitions of terms like "men's rights" to ensure clarity and consistency in responses, reducing potential bias.

## 6.2 Conclusion

From the perspective of human rights, the idea of

la-discrimination

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Note 13

gender is to be construed as a matter concerning both sexes as equal and deserving of similar prospects and protections. Reassessing gender justice through the lens of men's evolving rights is essential for a fair and resilient legal Order. Men face real harms—some structural, some situational—that law and policy must address. At the same time, many men's-rights claims reflect grievances better addressed through social policy than through dismantling measures that remedy historical discrimination. The path forward requires nuanced, evidence-informed, and intersectional responses: gender-inclusive protections, substantive equality measures where necessary, procedural safeguards for all, and democratic deliberation to navigate tensions.

A contextual gender justice framework offers a balanced blueprint: it recognizes men's legitimate needs without delegitimizing the structural struggles that continue to affect women and gender minorities. Achieving this balance is as much a political and cultural project as it is

a legal one. The law can set guardrails—ensuring inclusivity, fairness, and responsiveness—but lasting justice requires social transformation in norms, institutions, and opportunities.

Gender justice is not about male versus female, but it is an equal partnership of every person in all the domains of life. Inclusive & equitable reforms with holistic understanding of gender justice are essential for an inclusive and a balanced society.

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