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DOES INDIA NEED MEN'S COMMISSION; RATIONALE AND CONSEQUENCES

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ABSTRACT

According to the Indian Constitution, everyone has equal rights and should be treated equally in every aspect. But the real scenario of our country is not what we read in our constitution. To address the grievances of people, various commissions have been set up at different levels. Especially for women and children, there are special provisions and legislations to protect their rights. But many times, these privileges are misused by women and false allegations are made against men. So far, we have no such legislation and commission exclusively to protect the rights of men. Now the time has come to think about a national commission for men to perform the same functions as other commissions. Recently, many false allegations against men have been reported, and many men have already started their protest for the need for a men's commission. When we talk about feminism and gender equality, why should we stay silent when it comes to the protection of men? In many countries, various organizations have started a men's movement that focuses on atrocities against men and boys, and the matters include child custody, alimony, marital property distribution, domestic violence against men, circumcision, social safety nets, etc. There are other people who are strictly against men's commission and opine that men's commission would create more chaos and men will get more power, and the crimes against women will increase. Through this research paper will try to understand whether there is an actual need of having men's commission and what all challenges will be faced while establishing it.

KEYWORDS: Men's Commission, Constitution, Feminism, Gender Equality, Violence

I INTRODUCTION

India is a common law country with a rich tradition, numerous religious cultures, and a long history. The Indian constitution was written with the principle of equality as a key component of societal progress in mind. India's long-standing democratic freedoms are unusual among the world's young countries; but, despite economic and social progress, poverty, religious and caste-related violence, separatism, and other social ills persist.

There is no particular forum in India, a country with a population of 1.3 billion people, where half of the population of the world's second largest democracy, men may complain and be heard in an impartial, fair, and empathic manner to resolve their issues. The "male gender" is not considered a victim of any gender-based crime, such as domestic violence (physical, mental, verbal, or financial), sexual assault, sexual harassment, rape, stalking, physical/mental cruelty, or verbal or physical assault outraging modesty, in a country that is constantly striving for Gender Equality and Gender Justice. A man can only be a perpetrator, not a victim, in any of these crimes. While physical or mental matrimonial cruelty towards a woman is a criminal violation, it is solely grounds for divorce for a husband. While we check the provisions for the death sentence for rapists of girls and women, an adult male in India is not covered by the legal definition of rape, even if committed by another man.. While there are various bodies at the district, state, national, and central levels to protect women's and girls' interests and handle their problems, India lacks a single body or commission to deal with men's and boys' issues. There are numerous documented cases of men being victims of extreme domestic violence, harassment, torture, injustice, and cruelty, as well as scores of documented cases of men being falsely accused under women-centric legislation, but none of these serve as "statistics" because there is no law or body that can research, analyse, assess, and "record" these cases of abuse in order to help form protective legislation. This paper focuses on understanding and analysing why we don't have a national commission for men and what purpose it will serve if it is established.

II. LITERATURE REVIEW

1. BOOKS

1.1 A Call for Injustice: Domestic Violence Against Men- E.M. Moore

ABOUT THE BOOK

Although it has long been recognized that women are equally violent in domestic relationships, and that it is often they, not the men, who instigate the violence, they are able to avoid arrest by using the judicial system. A Call for Injustice tells the true narrative of how this happens in real life. It shows the process that has been released upon men for the crimes of those who have gone before them through the lives of Jim and Jan Avery (not their real names). A Call for Injustice is so deeply personal and brutally honest that, in the words of one bookworm, it almost begs one to ask the author for permission to read it.

HOW IT IS RELEVANT FOR MY STUDY

This book gives an insight on the real-life situation where men have to face the violence. This book would help me to understand the real-life situation through words and has many elements which will contribute to my research 1.2 Abused Men: The Hidden Side of Domestic Violence, 2nd Edition- Philip. Cook

ABOUT THE BOOK

The latest version of Abused Men: The Hidden Side of Domestic Abuse includes personal interviews and media cases to provide up-to-date information on the frequency of intimate partner violence against men. Updates on the law, legislation, judicial activity, social responses, police activity, support groups, batterer programmes, and crisis intervention programmes are also included. The final chapter provides a clear and explicit description of the adjustments that are required in the existing approach to intimate partner abuse, regardless of whether the victims are male or female.

HOW IT IS RELEVANT FOR MY STUDY

This book provides a lot of information including the latest research figures and up-to date surveys on the prevalence of intimate partner violence against men and personal interviews and cases drawn from media coverage of politicians and other public figures. This adds on the point why we need to think about protection of men and a commission for them

2. ARTICLES

2.1 Anant Kumar (2018) “A demand for a National Commission for Men in India: A rationale and its possible consequences”

ABOUT THE ARTICLE

The article is about the demand for the National commission for men. There have been cases where women have intentionally implicated and harassed men and their family members using anti-dowry or violence against women legislation. Families have been incarcerated for years despite their innocence. The men and their families believe they are not protected or provided with proper legal protection. They want a special commission set up for males, where they can express their concerns, defend themselves, and protect the interests of their families. The main issue focused in this article is the establishment of a separate commission for males to prevent women from perpetrating atrocities against men and their families.

HOW IT IS RELEVANT FOR MY STUDY

This article covers the various aspects of atrocities against men. Throughout the article, the focus is to establish a special commission for men. My research also focuses on the need of the commission for men and the consequences if such commission is established. Similarly, the article focuses on the positive and negative aspects of the commission for men.

2.2 Srimati. Basu (2016). Looking through Misogyny: Indian Men's Rights Activists, Law, and Challenges for Feminism. Canadian Journal of Women and the Law

ABOUT THE ARTICLE

The article is about the rights of men and men activism. Men's Rights Activists (MRA) have evolved in India as a well-organized social movement, with intentional political outreach through social media, legislative lobbying, and street action, after a shaky start in scattered individual activities in the 1990s. They represent a variety of ethnic and religious groupings, as well as some significant female leaders and a range of socioeconomic classes. The opportunistic exploitation of civil and criminal laws relating to marriage and domestic violence, in particular the simultaneous application of numerous statutes, is their common focus. This article provides MRA understandings of law, equality, and gender, based on author's ethnographic work with

these groups. Rather than focusing on their explicit misogyny, the article examines their arguments in order to investigate the internal and external obstacles that this mobilisation poses to feminist law. These include dealing with the unintended consequences of protective laws as well as the implications of symbolic equality standards. MRA discourses, according to the author, are a critical venue for tracing gender controversy and the construction of perspectives.

HOW IT IS RELEVANT FOR MY STUDY

This article would help me to understand the men's movements at various levels and various laws pertaining to feminism. From this I would be able to collect ideas of various existing laws and effect of feminism in the society and the challenges they face because of the MRA

2.3 Sanjay Deshpande (2019) Sociocultural and Legal Aspects of Violence Against Men

ABOUT THE ARTICLE

This article focuses on Domestic violence against men and gives various reasons and justifications why domestic violence should be considered as spousal violence. Domestic abuse is always brought up in the context of women. The perpetrator is always thought to be a man. Domestic violence, however, is no longer limited to women due to recent socioeconomic developments altering family structures. Men are also subjected to verbal, physical, emotional, psychological, and sexual abuse. Men are silent victims of these harmful practices since they do not report them. Because our culture's laws favour women as victims of abuse, these unfortunate males are denied justice for their deplorable situation in the family and society. This article aims to investigate the scope of the problem as well as its sources and consequences.

HOW IT IS RELEVANT FOR MY STUDY

This article would help me to argue on my points and give clear justification for the need of the Men's Commission. This article has briefly explained about the reasons for such violence and atrocities against men and the solution for that matter. This article also dealt with the comparative study with other countries which gives an idea about the development in other countries and makes us think that it's the time for our country to progress.

2.4 Anand Kumar (2012) Violence against Men in India: A Perspective, Journal of Human Behavior in the Social Environment

ABOUT THE ARTICLE

In the absence of any systemic statistics, it is critical to comprehend and investigate the issue of violence against men by women and associated causes, especially as more men come out and report abuse by women. The author forecasts that, as gender roles and power relations change, this will become more prevalent in the future, with far-reaching effects and implications for society as whole and male-female interactions.

HOW IT IS RELEVANT FOR MY STUDY

The purpose of this study is to better understand the dynamics and causes that are, or will be, important in the escalation of violence against males by women. The study is based on the author's counseling sessions, as well as discussions with males who have been victims of violence and secondary sources.

2.5 Mukherjee, D. (2016). Harassed husbands want men's commission, take to streets. Hindustan Times

ABOUT THE ARTICLE

This is an article published in Hindustan times about the reactions of husbands who have been harassed by their wives. This article raises the demand for men's commission and gives real life examples.

HOW IT IS RELEVANT FOR MY STUDY

This article would help to collect data and give a link to the real-life examples and can be used as a secondary source to conduct empirical research.

III. RESEARCH OBJECTIVE

- The objective of the study is to find out the need of men's commission in India

- To understand and analyze the problems faced by men in our society.
- To provide justifications on the lack or delay of such commission till now
- To understand the changes that would happen once the commission is established.

IV RESEARCH METHODOLOGY

The research methodology followed is a doctrinal form of research where the conclusion of the research is based on the observation made to the data collected and analyzed. This research is qualitative where conclusion has been drawn from the data collected which includes statistics and the analysis on the existing phenomenon. The contents of this paper were also influenced by the reviewed literature. Various resources such as journal articles, conference proceedings, and online sources have been used for the purpose of research.

V. HYPOTHESIS

- If a men's commission is established then we can have a gender neutral society.
- Men's commission would promote awareness to men so that we can create harmony in society.
- Patriarchy can be eliminated to some extent if men's commission comes into existence.
- It would create a platform to discuss violence faced by men in our society and hence can control misuse of law by women.
- Government will face few challenges while establishing commission for men.

VI. NATIONAL COMMISSION FOR WOMEN

Gender equality is a principle incorporated in the Indian Constitution. The Preamble encourages equality of status and opportunity, as do the Fundamental Rights entrenched in Part III of the Indian Constitution and the Directive Principles enshrined in Part IV of the Constitution. The Constitution not only guarantees women's equality, but also makes specific steps to ensure equality. As a result of the CSWI's recommendations and in order to preserve the Constitution's mandate, the National Commission for Women was established as a statutory entity in January 1992, under the National Commission for Women Act, 1990, to carry out the Act's and CSWI's mandates. The purpose of this chapter is to inform the reader on the necessity for a commission like the National Commission for Women, as well as the impetus for its creation in 1992.

Women as a class do not belong to any minority groups or are considered to be a backward class. Because India has traditionally been a patriarchal society, women have long faced societal disadvantages and limitations. As a result, various remedial measures were required to better the situation of women in a traditionally male-dominated culture. There are no provisions in the Constitution that explicitly benefit women. Though Articles 15 (3), 21 and 14 are in favour of women, they are more general in character and provide for creating any specific arrangements for women, but they are not such provisions in and of themselves. The Supreme Court has attempted to extend some protections to women through interpretative processes. The courts have attempted to improve the social conditions of Indian women through judgments such as *Bodhisattwa Gautam v. Subra Chakraborty*¹ and *Chairman Rly Board v. Chandrima Das*², where rape was declared a heinous crime, as well as the landmark judgment in *Visakha v. State of Rajasthan*³. However, this has not been sufficient to improve women's status in India. As a result of these circumstances, the Committee on the Status of Women, as well as a number of NGOs, social workers, and specialists contacted by the government in 1990, suggested the establishment of a women's apex organization. The foundation of the National Commission for Women was prompted by a lack of constitutional machinery, judicial capacity, and popular interest. Women in India, despite being in a better position than their forefathers, were handicapped to a large extent in the early 1990s, as evidenced by the conditions and problems mentioned above, and

¹ AIR (1996)SC 922

² AIR (2000) SC 988

³ AIR (1997) SC 3011

these handicaps and injustices against Indian women prompted the Indian government to establish the first National Commission for Women in 1992.

VII. POSITIVE DISCRIMINATION AND CONSTITUTION

During the nationalist movement, the need for positive discrimination in favour of the socially poor was initially acknowledged. Mahatma Gandhi, a devout Hindu and firm believer in the caste system, was the first leader to recognize the seriousness of the issue and to appeal to the upper castes' consciences to address the age-old social ailment of relegating entire populations to the deplorable status of "untouchables." He also recognised the strategic logic of bringing this vast group of individuals into the political mainstream in order to broaden the scope of the liberation struggle. He tried to give this approach a religious validity by dubbing these untouchables "Harijans" (people of God), in order to avoid upsetting the caste Hindus' traditional sensitivities more than was required.

Citizens have equal rights under Article 14, and the state has a corresponding responsibility to ensure that these rights are upheld. Perfect equality is impossible and difficult to achieve, hence the word equality before the law does not confer absolute equality to the individual. Rather, equality before the law is defined as the absence of favoured rights based on caste, creed, or religion that favour certain people while excluding others, as well as the equal submission of all people to the law of the state. As a result, equality before the law refers to the treatment of persons who are equal among themselves, and the same should be applied to ensure that similar people are treated equally. This is akin to what Dicey proposed in England under the guise of the rule of law. This emphasises the supremacy of law, implying that every individual, regardless of background, is subject to the authority of the ordinary courts of the state. The rule of law also signifies that no one should be subjected to cruel, discriminating, or uncivilised treatment, even when the law requires it in order to sustain the law's efficacy. The 14th amendment to the United States Constitution contains a provision that looks to be similar to Article 14's guarantee of equal treatment under the law. In the case of *Choki v. State of Rajasthan*,⁴ the court decided that specific rules for women are acceptable since they promote equality. The Indian Constitution has

⁴ AIR(1957)Raj 10,

special provisions to help those who are socially and economically disadvantaged. Article 16 guarantees equality of opportunity in terms of public employment. Furthermore, in all aspects, Article 17 of the Constitution prohibits untouchability. Untouchability has been a source of anguish for the lower classes, and the Dalits had to be removed in order for them to have the same opportunities as others outside their group. The reservation that was offered to the depressed classes has continued, and the SCs, STs, and backward classes are subject to pleasure from all spheres on sympathetic grounds.

VIII. SOCIETAL APPROACH: VIOLENCE AGAINST MEN

The term "domestic violence" refers to a wide spectrum of violent crimes perpetrated by one family member or household member against another. It usually refers to mistreatment of a kid or spouse, and it can entail not only physical harm, but also threats, verbal, psychological, and sexual abuse. The essential distinction between other assault charges and domestic violence is the relationship between the abuser and the victim. Domestic violence is always thought to be perpetrated towards women in India. Men, too, are victims of domestic abuse, as evidenced by various reports. Women are rarely regarded to be capable of inflicting violence on males due to preconceived gender norms. Many courts have also weighed in on women's fraudulent complaints of domestic violence. Men are still hesitant to speak out about the violence directed against them, and they are unaware of any legal resources available to assist them prevent it.

Men believe it is disgraceful to be beaten by a woman in a male-dominated society, thus they do not disclose the assault. Family pressure also hinders them from taking legal action, and they are fearful of being caught up in a false accusation under Section 498A. People do not believe guys who disclose domestic abuse and violence. When these men try to complain about these issues in their marriages and families, no one listens. Many men are embarrassed to admit that they have been beaten by their wives. Underreporting is likely due to a combination of factors, including a belief and hope that things will improve, a fear of losing social respect and position, protection, love for their children and family, and a fear of being accused. In the male-dominated Indian society, complaining by men can be seen as "feminine behaviour."

Any form of violence has an impact on a person's physical, mental, emotional, and psychological well-being. It also constitutes a violation of fundamental human rights. Unreported and unacknowledged violence against men can lead to denial, divorce, despair, and, in the worst-

case scenario, death. Suicides were found to be more common among married men than in separated/unmarried men. According to the World Health Organization, women are more likely to consider suicide, whereas men are more likely to commit suicide. In society, this is referred to as a gender paradox. According to the World Health Organization, being exposed to violence increases the risk of smoking, alcoholism, and drug abuse, as well as mental illness and suicidality, chronic diseases like heart disease, diabetes, and cancer, infectious diseases like HIV, and social problems like crime and more violence.

IX. MEN'S MOVEMENT IN INDIA

Men's rights activists in India recently won a huge win when the Supreme Court declared them to be the victims of domestic violence. However, the courts did not make the law gender-neutral. They said that Indian women were making false domestic violence charges. The court stated, "The majority of such complaints are lodged in the heat of the moment over insignificant problems." It went on to say that women were failing to consider the "implications and ramifications" of filing a criminal complaint against their violent husbands. "An unjustified arrest could jeopardise a settlement."⁵

Ram Prakash Chugh, a Supreme Court advocate, founded the Indian men's rights movement in Delhi in 1988 to address psychological abuse by wives and false charges of dowry harassment by wives. The movement started as the "Society for the Prevention of Cruelty to Husbands." The "dowry law," or Section 498A of the Indian Penal Code, was established in 1983 to protect women from harassment, abuse, and assault in circumstances where the bride's family failed to offer an adequate dowry. Police might automatically arrest husbands and family members accused of dowry-related offences under the law. MRAs argued that this gave women too much power and fought for the law to be changed. The Indian Supreme Court agreed with them in 2014, and the automatic arrest provision was repealed, ostensibly to protect men from "disgruntled wives."

⁵ Sumanan Naishadam, Why India's Men's Rights Movement is Thriving (Dec,21,2021, 4:20 PM)
<https://www.vice.com/en/article/9b8akp/why-indias-mens-rights-movement-is-thriving>,

The film 'India's Sons' will be released in 2022. This film's 3:28 minute trailer is making the rounds on YouTube. As the title suggests, the film is about the country's sons-men; it is about men who have been wrongly accused of rape. "A female can turn around and claim 'I was raped' at any time," a legal expert says to the camera in this teaser. This legal expert is taken aback. Other female speakers backed up his point of view, claiming that women are utilising rape laws to harass men by falsely accusing them of rape. In India, the men's rights movement is based on the concept that a woman is born crazy and a "pishachini" who is here to destroy males.

Men's rights activism in India is a nearly decade-old movement that has gained traction in recent years. What began as a protest against bogus dowry charges quickly morphed into a tool to silence female voices across the country. While there is no denying that dowry laws are misused and false sexual assault allegations are made, as seen in the Arnesh Kumar vs state of Bihar & Anr ⁶case and others, pejorative hashtags like '#Feminism is Cancer' or '#Pishachini Mukti' only serves to degrade a long-awaited movement. Men's rights activists have regularly expressed their dissatisfaction with the escalating number of suicides and the use of IPC Section 498A to silence powerful feminist voices. Several studies, however, have debunked these myths. In 2017, Vimochana, a women's rights organisation, conducted a study to assess Section 498A's implementation and effectiveness in order to provide a counter-narrative to the data manipulation practised by men's rights activists. Bindu N. Duddahatti, a member of the research team and a litigator at the Alternative Law Forum, detailed two important conclusions of the study to dispel some fallacies. The first is the urban legend of indiscriminate arrests of wives and others identified in the complaint, and the second is the rising number of male suicides allegedly caused by false allegations. According to the report, over 70% of the accused paid their anticipatory bail, and 24% of the accused were arrested under 498A. The accused (who paid the bond) was classified as an "arrested person" in the NCRB database. And as a result of the clubbing, the overall number of men detained climbed. While we need to overhaul the legal structure to investigate the cases of the 24% of men who are wrongfully accused, demonising women and lowering #MeToo in the process affects thousands of women who are often subjected to domestic abuse, workplace harassment, and sexual misconduct. The rising rate of male suicide is the second major concern identified by men's rights campaigners. Despite their claims, NCRB data from 2019 shows that the proportion of female victims was higher in marriage-related

⁶ AIR(2014) 8SCC 277

problems' such as dowry, rape, and abuse. Furthermore, the 2020 data, which reveals that male suicide outnumbers female suicide, does not describe the type of "marriage-related difficulty" that leads to suicidal thoughts. With no clear definition of a "marriage-related problem," activists cannot allege that criminal procedures under IPC Section 498A are to blame for an increase in male suicides. Although bogus dowry and sexual assault incidents cannot be dismissed, statistics show that married women, and women in general, experience significantly more daily torture than males. As a result, adequate investigation mechanisms are required to ensure that all people are treated fairly, regardless of gender. Meanwhile, men's societal concerns must be investigated, as well as the greater issue that underpins them. However, rather than discussing men, the discussion around the call for a men's commission focuses on blaming women. For example, the activists do not address transgender or Dalit men, or how the larger spectrum of caste and gender influences the country's social fabric.

X. CHALLENGES TO ESTABLISH MEN'S COMMISSION

Purush Satyagraha was held in March 2019 in Jantar Mantar, New Delhi, by Men's Right Association, Save Indian Family Association, and other non-governmental organisations in support of the demand for a Men's Commission. According to them, most laws are women-friendly and support women's rights because of the establishment of a women's commission. Men are forced to survive under the threat of malicious allegations while women file false reports against their husbands and in-laws. Even if there is an iota of truth to the allegations, women misuse laws related to dowry, sexual harassment, rape, and domestic violence, one cannot overlook the fact that men file false cases against other men in criminal general laws such as murder, corruption, and fraud, rendering this basis for the demand of a men's commission to be, for lack of a better word, idiotic. It is necessary to concentrate on legal gaps rather than condemning women's rights and legislation. Any commission is formed based on a history of exploitation and vulnerability of a certain class or community, which causes them to be backward and marginalized. Men, according to this perspective, do not have such a restrictive and exploitative history. Academic discourses abundantly record that history writing has always

been dominated by men, who have reaped the benefits of all that documenting in every aspect of life. Men have always had a position of power. Throughout the world, men continue to outnumber women in terms of representation. According to one of the 2019 reports, India was ranked 149th out of 193 nations in terms of the percentage of elected women representatives in national parliaments, while Pakistan and Afghanistan were ranked higher.

In 2011-2012, the female labour force participation rate (FLPR) was 31.2 percent, but it dropped to 23.3 percent in 2017-18. Underreporting women's work is one of the reasons for the declining female labour force participation rate, along with a lack of employment prospects and education. A female typically spends twenty-four hours a day, seven days a week doing unpaid domestic work that is critical for the social security of family members. Demonstrating in support of the men's commission cannot be considered a positive step toward gender equality. In his book *A Theory of Justice*, John Rawls developed two theories on social justice. To begin with, everyone should have an equal right to freedom, and everyone should be able to interact with one another with the same degree of liberty and equality. Second, social and economic disparities should be organised in such a way that individuals of low status benefit the most and that everyone has access to proper equality of opportunity.⁷ Amartya Sen agreed with Rawls' theory of justice to some extent and, through his capacity approach, built on it. Despite several laws and ordinances, women have not been treated equally to men, according to this idea. How can men claim for such an unjustified demand that lacks even the most basic justification? The call for a men's commission is not about men's rights; it's about preserving patriarchal structures for as long as they can be preserved. They refuse to relinquish their patriarchal advantages.

XI. CONCLUSION

Atrocities on males by women cannot be denied, put aside, or ignored because of their grave consequences. However, one must keep in mind that establishing a National Commission for Men may not be the only solution to this problem. It's not impossible that this panel will intensify the conflict with the National Commission for neither Women, resulting in a situation

⁷ John Rawls, *A Theory of Justice* (1971)

that benefits neither men nor women. To avoid this, the government may reform and rename the National Commission for Women, making it gender-neutral and allowing it to address issues brought by men and women, as well as campaign for required legislative changes.

