

**FUNDAMENTAL AND PREVENTIVE RIGHTS: ACTS AND OBLIGATIONS
INFRINGEMENT BY WOMEN***** Garima Jargar****ABSTRACT**

“Possession of rights and authorities has a huge impact on an individual life, which is prominent for the functioning of society. Every country has either presidential or dictator form of governance but India is the only country that appears to follow the democracy for the departmentalization regarding the delegation of accountabilities and duties. From the ancient transition, society used to blame every circumstance on the shoulder of women because the weaker section was tagged as children as well as women portion. Customs and practices were upheld as rigid as well as certain guidelines to be followed by every person with the replacement of the Constitution. Contrary to the situation of coercion and threat which was surrounded within the people’s mentality is been implemented as upside down or in the simpler word all the accusations are been turned up in the contemporary era. Misuse or misleading the legal provision or any such disciplinary action which acts against the welfare of the nation is been denoted as “legal terrorism”. The main agenda will be highlighted to avoid frivolous complaints and restrict the assertion of false allegations. The critical and crucial purpose of the misconduct which is performed irrespective through the acts or omission will be limited and the ruling of courts by openly convicting the women with the unwanted charges by disrespecting the sanctity of family. Laws, schemes and legislative enactment were amended to prevent the fake claims made unnecessary irrespective of the gender biasness and safeguard the doctrines of all the parliamentary crisis. Revealing the allegation as false which turns out to be as an ulterior motive can be used against the term “innocent masculinity” which can make the economy urge towards the downfall.”

Keywords – Democracy, Customs, Legal-terrorism, False allegations and Innocent Masculinity

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INTRODUCTORY PART AND SITUATION FROM HISTORIC ERA TILL CONTEMPORARY WORLD

In the contemporary stage, one element which inbred as a child when born, is the basic fundamental rights which make sure that no one is segregated from any circumstances. Country like India, is been highly subjugated under the constitution which gave efficient rights and empowers every citizen to live healthily and with all the defined level of precautions. The main aim and objective of writing this article is to give a wider conceptual elaboration of schemes, when basic and necessary rights are misused by the normal public especially by women although the defined set of rules and regulations has been made for the enhancement of the position and protection of the women's mindset. There are punishments as well as penalties for the defined accusation which can be imposed of the wrongdoing by any person. In the era where ascendancy has been shared among male as well as female in equal ways and defined manners with reference the given authority, still there are many types of mischief's happening in the society which ultimately lead to changes in the rules and policy of the guidelines. Due to all the amendments and dynamic changes in the society, the law was enforced for the protection of every specified subject matter and to ensure every single citizen should get justice with a uniform level of participation.¹ Stronger and rigid law sometime leads to conflicts between the communities which ultimately end up having intrinsic flaws and corruption.

The contradictory statement and the behaviour of the people are that - if there is any enactment of rules or order then there will be certainly be some set of individuals who will oppose the rule, as not every regulation and law need to be accepted widely. These issues sometimes led to conflicts and disputes among the communities and finally, as an outcome there is a huge sort of imbalance and instability in the society. The State, as well as Government, cannot deny the fact that there are many provisions under fair, impartial, and equal treatment among humankind, within which Indian, males and females are considered as subordinating partners to the economy. It is the history that territory- the most suffering group of the civilization is the woman. Mass movement were performed and at a huge level of participation for the pleading and appealing of right but sometime it leads to unwanted events which made negative

¹ Harry Mills, With abuse of power more likely to occur in male-dominated environments, surely balancing the gender gap is all the more desirable, ACCA, (08 Oct. 2020, 12:20 P.M.), <https://www.accaglobal.com/uk/en/member/discover/cpd-articles/leadership-management/gender-imbalancecpd.html>.

attempt as an outcome misuse of possession over rights.² The data remains constant in evolutionary scenario i.e., in the present era – they face a huge amount of segregation, partial treatment, injustice, and dishonour from every corner of the coterie. To reduce the crime and discrimination of women – the government took many steps regarding the upliftment of the position of female in the society, with this particular reference many laws and policies were made only for the benefits of the weaker section i.e., women and children. India is been considered as a supporter of Democracy as well as a Mixed Economy which elaborates as people’s government with an unbiased form of economy.³

MISUSE OF RIGHTS BY WOMEN: INTENTIONALLY AND ACCIDENTALLY

The society can be stated as egalitarianism until the people and law treat everyone equal in the eye of law. The general disclosure is about the misuse of power and authority which is been given in the hands of any mankind, which is headed under the explicit form of unconstitutional and draconian. For the up-gradation and enhancement of the status in society, someone should be given accountability to perform efficient duties but not in an excessive manner. If there is any sort of belief on a democratic form of government then definitely there should be the distribution of resources and facilities among people. Distribution of responsibility leads to specific allotment of work and as an outcome less level of conflict between individual interest occur. As the most suffered group of the society were women and children, so for the improvement of the clan, the government made many separate rules and regulations which ultimately made a huge impact on an individual life. The violation of rights which was crippling affliction by the segment of women and few violative rights were – the violation of Right to Equality, Education, Political, Property, Health, and Employment but for preserving the rights there were many strict punishments imposed for the welfare of weaker section.⁴ Matrimonial disputes and conflicts which was raised by the misunderstanding between the communities openly disgrace the interest of the women that cause the chaos among the people and society.

When the society was set up all the delegation of authority as a result it leads to decentralised among the various department for better functioning, but as the division of power and

² Riya Mishra, The gender advantage: Women who misuse it & men who bears it, Times of India, 8 Oct. 2019, at A.1.

³ Avantika Tiwari, The 498A Debate: The Legal void in which ‘Fear of misuse’ is misused, FII, (08 Oct. 2020, 18:30 P.M.), <https://feminisminindia.com/2017/08/07/498a-debate-legal-void/>.

⁴ Videh Upadhyay, *Emerging issues and concerns in a Rights based perspective*, WATER RIGHTS AND THE NEW WATER LAWS IN INDIA, 2011, pp. 56-65.

possession was allotted for the enforcement of ruling of law uphold the massive holding up authority in a specific department. India has been known for the fact of hauled for the treatment of women and heinous crime which take place in daily basis and if the society have any sort of negative effect then it ultimately leads to disgracing a particular section for upholding the main agenda to upliftment. As, many surveys and judgement were suggested to up bring the various amendment for the protection of women within the ambit of misleading of false allegation. With the reports which were presented in front of judges and statutory authority stated that – there were almost 75% cases of sexual assault and rape which was claimed as false allegation within which fake FIR's (appeal) was filed. To safeguard the interest from the unwanted finding of the facts which also stated that at a large proportion frivolous number of complaints and termed the men's rights as "innocent masculinity".⁵

DEBATABLE LEGAL PROVISIONS – FOR FALSE AND UNWANTED FILED CASES

As the fact is India is the country that has a dense population in which there are acceptance as well as denial of the particular rule, and many times this denial of the situation can cause a huge level of destruction. However, the most targeted section in this particular scenario is 498A of IPC in which the men activist argues in that subject matter that the women are misusing as well as misleading the law and order, and over past few years, this particular section has been popularly known as "the most misused rule as well as the law in the history of past and present Indian Jurisprudence which subsequently led to leniency and inefficiency in the investigation".⁶ The situation changes whenever there is a maximum intensity of authority uphold by a male or a female person in the society which subsequently leads to inflexibility and mishandling of the issues related to the societal aspects. As there are many acts and schemes which are specially made for women welfare and various types of remedies are given whenever there is an infringement of rights but sometimes these specific circumstances mislead the humankind.

⁵ Mehak Ahuja, *How Women Misuse their Rights*, LEGAL SERVICES, (09 Oct. 2020, 16:20 P.M.), <http://www.legalserviceindia.com/legal/article-3095-how-women-misuse-their-rights.html#:~:text=Women%20use%20this%20law%20as,under%20section%20498A%20is%20false.>

⁶ Anil Kumar Saroj, *Mother of daughters abandoned by the husband, stigmatised by society*, VIDEO VOLUNTEER, (10 Oct. 2020, 09:45 A.M.), https://www.videovolunteers.org/mother-of-six-daughters-abandoned-by-husband-stigmatised-by-society-2/?gclid=EAJaIQobChMI18LptpCR6wIVlg4rCh0o5QsbEAMYAiAAEgLnzfD_BwE.

There are many ways in which a female violated her own set of rights – which was granted to her for protection. There are many fake and unwanted cases which has been made against the people of society. Few of the female take as an act of revenge and remaining misuse the given right based on getting equal status in the society. In this instance, it is been termed as women misleading the society as well as the community and here the big sufferer is the male section of humankind. This particular grip in the society which sometimes establishes an inadequate and highly influential investigation as the law is tilted towards the protection and welfare of the people living in the society.⁷ “If there is excessive use of resources and facilities that will automatically lead a downfall as well as deterioration of the country”, concerning this if only a set of people hold immense authority and non-delegated power then that will be termed as the destruction of the society. India is been known for its democratic form in which the power is embedded in the hands of people with respect to equal and fair extent. There are many false cases which made the constitution as well as the government in the questionable state, with respect of an outcome it initiated cruel action against the petitioner(women) itself and debate along with Section 182 of IPC which stated about the false information or any type of facts which intent to cause any unlawful power against the public servant for the purpose of injuring another person. Controlling and manipulating the investigation can sometime cause negotiation but question the identity of the person that leads to negative impact. From past ancient era women and children are the two most segregated section who were disallow for the socio-cultural approach as an outcome in the contemporary world it leads to the vicious impact upon the people.⁸

In the contemporary relevance there are many cases which has been put under the consideration of the government that it is not mandatory that only women and children can be the victims or segregated for the wrongdoings. In many investigation men or the male part of the society can also be the sufferer in the circumstances. The situation and incident which took place in the historic as well as ancient era within which women and children were not awarded equal right neither in work space where they used be employed nor in the society among the communities. In the following of several decades one crime or offence which never stopped or get under the

⁷ Akriti Dixit, *Has the rise in misuse of women protection laws lowered the conviction rate*, ONE INDIA, (10 Oct. 2020, 19:10 P.M.), <https://www.oneindia.com/india/has-the-rise-in-misuse-of-women-protection-laws-lowered-the-conviction-rate-2936837.html>.

⁸ Aruna Sharma, *Women's rights: Misuse of laws erode faith in justice system*, FINANCIAL EXPRESS, November 14, 2017.

restrictions was related to women which are also known as the marginalized group of the population. False allegation and improper scrutiny sometime lead to unwanted charges that was imposed in the human nature as an outcome of the scenario there is always a pinch of revenge as well as right for suing the person which incline the judiciary function in a negative way as the result of imposition of the eventual unreasonable factual information.

CONCLUSION

Policies and Laws are made for the enactment purpose but the major principles which is uphold are actually within the hands of general public. Population of the territory have a wrong presumption that custom and legal procedures are performed equally and leads to same impact within the society, contrary to the reference both are interrelated not the same. The agenda of the legislature is not about the wide fluctuation of law but not having any sort of defined restriction over the limit of application and operation of the law. Government (State) and Courts made the law for the welfare and uplifting the conditions of the weaker section, i.e. women living in the society but with a good aim and propaganda. Utility as well as protection of law towards the general public acts as a double-edged armed weapon, which can be applied for any purpose, likewise the burden and pressure among the people also lie within the boundaries of the state which cannot be stated that the implementation of the rights will be used only in positive manner. Many of the people commit various type of offense for sake of intentional as well as accidental purpose that they ultimate disclose as the essential part of the living, but although as a result it always ends up harming and unlawful activities. Lastly, the rights and laws are made for the people of the society to control and diminish the rate of unwanted crimes, which are taking place among different types of communities but biases, prejudice, and corrupted socio-economic activities will be having a direct correlation with the deposition of the executed law. As a conclusion this action will be considered as a severe loss to the country and within this there should be some sort of restrictions and limitations among them.

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