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BLIND JUSTICE? EXPLORING GENDER BIAS IN CRIMINAL PROSECUTION

Behind the towering drapery of Indian principles within the courts of justice, the pearls of justice, liberty, and equality are meticulously embedded. However, the lingering query emerges: Is the resplendence of this curtain an authentic representation, or merely a facade designed to present a deceptive reality to those who place their trust in the Indian Justice system? As conscientious citizens of the nation, it is imperative for us to comprehend and identify the lacunae within the legal system, and to vocalize our concerns about them. It is a harsh and disheartening reality that women have been subjected to victimization for an extended period.

While India has long been entrenched in patriarchal norms, it is crucial to acknowledge that crimes are not inherently gender-specific. It is high time for us to recognize that our perceptions of crimes should not be moulded by the gender constructs unfortunately imposed by the society at large. The magnitude of this issue extends beyond the binary realms of men and women; it encompasses the LGBTQ community as well. A historical exploration reveals that the roles of this third sector of society have held paramount significance throughout the ages, garnering respect and rights devoid of discrimination. However, in contemporary settings, they continue to confront challenges, some of which may elude mainstream awareness. Despite the landmark judgment by the Supreme Court in the *Navtej Singh Johar v. Union of India* case on September 6, 2018, which decriminalized Section 377, the legal landscape still falls short. Presently, same-sex marriage remains unrecognized in India, echoing a dissonance with the nation's proclaimed values of equality and democratic abundance. Remarkably, the country's existing laws define marriage strictly as a union between a man and a woman. In the succinct language of legislation, profound statements about societal norms and acceptance are embedded.

Unmasking False Cases and Distorted Justice

In our nation, a substantial number of cases are filed daily, unfortunately, with a considerable portion being falsified for personal gain. A chilling incident in Kolkata exposed a matrimonial scam where a woman married three men, filed false cases, and sought alimony. Numerous instances of such deceptive cases point to a prevailing issue—the lack of legal consequences for such actions, often exploited with the assistance of lawyers. This grim reality underscores a perceived imbalance in the justice system, seemingly prioritizing women's rights over men's.

According to the 2010 Economic Times - Synnovate survey, 19% of the 527 men surveyed in various metros across the country claimed to have experienced sexual harassment at work. A similar survey conducted for the company Viacom18 in 2013 revealed that 43% of male corporate professionals had been subjected to sexual advances by colleagues. Additionally, IPC provisions such as Section 498-A (cruelty by husband), 354-D (stalking), 354-C (voyeurism), The Prevention of Women from Sexual Harassment (PoSH) Act, 2013, and 354 (outraging modesty) are intended for the benefit of women genuinely facing such challenges. However, the disheartening reality is that these sections are often misused to falsely implicate men, leading to a loss of their dignity.

Even after proving that the cases were filed on false grounds, the most distressing aspect is that society's perception towards these men, who are actually the victims, undergoes a drastic change. As a result, despite being in the right, they often face defamation, and their lives are never the same in any sphere. This not only affects men but also impacts the women who genuinely require legal aid, as they may be misjudged due to the prevalence of false cases. The situation echoes the familiar tale of the boy who cried wolf, where deceit leads to disbelief, and the consequences are dire. Similarly, the misuse of legal power for personal gain creates a scenario where trust in legitimate cases is eroded, ultimately harming the very individuals the law was designed to protect.

A Critical Examination of Loopholes in Gender-Related Legislation

Delving into the intricacies of Hindu law, Section 18 of the Hindu Adoption and Maintenance Act addresses the maintenance of women by their husbands. However, a significant loophole emerges as there is no stipulation specifying the amount of maintenance to be granted; rather,

it is left to the discretion of the law. This gap has led to rampant misuse, with numerous women leveraging false allegations to increase alimony amounts after marriage. A notable case involves Shiv Kumar, a 45-year-old man from Delhi, who, despite being disabled, had to raise 5 lakh rupees in alimony through crowdfunding for his wife. In a Punjab and Haryana High Court judgment, Justice HS Madaan, while dismissing a man's plea challenging a family court order, asserted that a husband may resort to begging, borrowing, or stealing to maintain his wife and children.

This raises critical questions about the justice and equality enshrined in the preamble of the Constitution. Does this interpretation align with the notion of equality before the law in India?

Entering the realm of one of the most contested laws in the Indian legal system, Section 498-A, cruelty by husband and his family, criticized for its gender bias, this law has led to the imprisonment of even senior citizen parents of the husband. The Supreme Court itself acknowledges that this section is often exploited to settle personal scores against husbands and their families. A crucial aspect contributing to the controversy is the imprecise definition of "cruelty" within the section. The definition stipulates "any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb, or health, whether mentally or physically, of the woman." The inclusion of the term "likely" introduces ambiguity, giving rise to various interpretations and differences of opinion in judgments. This inherent vagueness becomes a breeding ground for misuse and adds complexity to the legal landscape surrounding Section 498-A. Highlighting the gender bias in rape laws, which exclusively identifies men as perpetrators against women.

Additionally, Section 5 of the Domestic Violence Act, 2005 introduces complexities where disagreement over selling jointly owned property can lead to charges of domestic violence, particularly economic abuse, against the husband. These legal provisions raise concerns about fairness and equality within the legal framework.

CONCLUSION

As aware citizens, we need to cease victimizing any section of society and start believing that crimes are not gender-specific. The world is not unsafe for just one section of society. Let's

not allow the set patterns of society to result in the downfall or loss of people who genuinely need legal aid.