

General Bias in Criminal Law Enforcement: Analysing the Impact of Gender Perceptions on Investigation and Prosecution in India

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Abstract

This research paper examines the impact of gender prejudice on investigation, prosecution, and judicial results in India's criminal justice system. Due to conventional ideas about men's and women's roles in society, gender stereotypes have a big impact on criminal justice processes and frequently result in uneven legal implementations. The analysis uses landmark judgements like *Rajesh Sharma v. State of Uttar Pradesh*, *State of Punjab v. Gurmit Singh*, and the *Nirbhaya* case to show how prejudices influence court rulings in cases involving sexual offences, domestic abuse, and dowry harassment. The study examines how, in family-related disputes, male defendants are frequently assumed to be guilty, whereas female defendants may be given mercy because of perceived notions. The study also discusses the difficulties faced by female victims who are exposed to character evaluations during trials, which damage their reputation and postpone justice. On the other hand, systemic barriers that result from racism leave male victims of abuse with insufficient legal protections. Gender prejudice persists in legal processes notwithstanding judicial directives and measures intended to promote fairness. In order to promote a fairer legal system in India, this study highlights the necessity of gender-neutral training, objective procedural improvements, and public awareness campaigns. The Indian judiciary can only attain fair and impartial justice devoid of gendered presumptions by implementing methodical reforms.

Keywords: Gender Bias, Prejudice, Investigation, Prosecution, Judgement

Introduction

Barack Obama, former US President quoted, "That's what twenty-first century feminism is about: the idea that when everybody is equal, we are all freer."

While the world is spreading the message of Gender equality, gender biasness is experienced in the legal world dominantly. In fact, every aspect of legal world, investigation, prosecution and law enforcement are influenced by Gender bias regularly. Women's complaints are more likely to be delayed and dismissed at both the police station and the courthouse compared to men's complaints, indicating a pattern of "multi-stage" discrimination. Even for cases of violence against women (VAW), women's complaints are more likely to be dismissed or result in the suspect's acquittal rather than conviction, compared to men's complaints (Jassal, 2023).

There are many obvious reasons for the existing gender bias in a country like India. Firstly, the gender bias arises due to the deeply engraved societal norms where women have been given a distinct representation. So, right from police enquiry to a court decision, one can experience gender bias prominently. Further, the historical texts and the cultural contexts that are based on the patriarchal values questions the fairness of the criminal justice system in India. Patriarchal perceptions of Indian police officers lead to scepticism and dismissal of female complainants. (Tripathi et al.).

Many sections of the Indian Penal Code (IPC) are designed to protect women against sexual violence, dowry harassment, and domestic abuse. Those the intention of these laws are to protect one gender, there is a very common belief amongst the citizens that the men and other non-binary individuals are overlooked. Further, the societal views about male dominance and female vulnerability skew the investigative and prosecution process in their favour.

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Very broadly, the women who are accused of crimes may face moral judgements based on social expectations while men who commit crime encounter stigma and disbelief.

This research paper is an attempt to understand the gender perceptions regarding investigation, evidence gathering, to charging filed and further, the impact on the prosecution as well as trial outcomes. Through an analysis based on statistical data and real-world examples, this paper aims to reveal the inherent gender biasness in the Indian Judicial system and further, advocate steps to promote gender equality and neutrality under the law.

Review of Literature

Women face significant challenges in achieving justice due to deeply entrenched patriarchal, cultural, and caste-based norms that permeate the court system, even in cases of sexual assault and rape. Gender bias is prevalent in the criminal justice system, as demonstrated through an analysis of landmark court cases involving sexual assault and rape. The courts can address gender bias, emphasizing the need for the law to be a transformative instrument in achieving gender justice, and calling for lawyers and judges to be socially sensitive and avoid personal biases when handling cases of crimes against women (Tannvi et al.).

Local representatives strongly discriminate against minority women, especially in matters of inheritance law enforcement. There is little evidence of overt caste or gender discrimination in non-gender-progressive law enforcement scenarios. Entrenched gender norms are a key explanation for the bias exhibited by local representatives against minority women in inheritance law enforcement (Joshi, 2015).

India's society is highly patriarchal, with men holding primary power and dominance in various spheres of life. Gender discrimination against women is evident in areas such as education, employment, and wages, across both rural and urban India. The criminal justice system in India exhibits differential treatment and systemic injustices based on gender (Bhatnagar, 2024).

The creation of all-women police stations in India did not increase reported crime but rather led to a reduction in caseloads at regular police stations by deflecting gender-based crimes to the all-women stations. The all-women police stations focused on counselling victims

and encouraging reconciliation with abusers, rather than arresting suspects. The Survey evidence suggests that the all-women police stations were not associated with positive perceptions of female police officers (Jassal, 2020).

A new era of gender-sensitive prosecution has emerged, changing how crimes against women are handled in the criminal justice system. Gender-neutral laws and policies have improved the enforcement of crimes against women and reduced impunity. Prosecutors are now prioritizing and dedicating specialized resources to the prosecution of gender-specific crimes like domestic violence and sexual violence (Lawson, 2009).

The paper advocates for a move away from physically coercive interrogation tactics towards more humane approaches in policing and criminal investigation. The paper examines how the diverse backgrounds of police personnel can lead to biases in their investigative approaches to similar criminal cases. The paper seeks to identify solutions to investigative bias and the need for a fair criminal defense investigation system to improve police management and justice delivery (Gore et al., 2024).

The paper discusses the issue of gender crime in India, including the rising rates of crimes like rape, dowry threats, and gender violence, and how these crimes impact both men and women. It also examines the legal gender crimes, such as rape, dowry threats, and gender violence, are a significant and growing problem in India. - Gender crimes now affect both men and women in India and have become a major national issue. - There is a need for gender-neutral laws in India to address the growing problem of gender crimes, based on an analysis of available statistics (Deep, 2021).

Research Methodology

- The research is Qualitative in nature.
- An exploratory approach is adopted to understand how the gender bias manifests with the criminal justice in India.
- Secondary data is used for interpretation purposes.
- The Secondary Data used includes academic literature, case law analysis and National Criminal Records Bureau (NCRB) statistics.

- Thematic analysis to be used to analyse the case laws focusing on themes related to gender perceptions.
- Comparative Analysis of sentencing outcomes male and female defendants is conducted using NCRB data.
- Descriptive Statistics such as higher acquittal rates in cases filed by male victims or increased conviction rates for female victims are identified to illustrate potential systematic biases.
- The limitation related to use of NCRB data that exhibits only available crime data and reported cases fails to capture the full scope of gender bias.

Research Objectives

The following specific objectives of the Research can be summarised:

- To analyse the gender perceptions, influence on the behaviour and decision-making of law enforcement officers during criminal investigations.
- To assess the impact of gender bias on the prosecutorial decisions.
- To examine the effects of gender bias in Court proceedings.

Analysis and Discussion

Gender Bias During Investigation

The preliminary stage of collection of evidence and attitude of law enforcement authorities have exhibited gender bias with varying degrees of presumptions. This goes on to show that the officers approaching a case have preconceived notions about gender roles. This bias may affect the neutrality factor for collection of evidence and analysis of the same.

In India, gender largely influences criminal investigation, particularly in cases of sexual violence and gender-based accusations. The Supreme Court recognised the impact of gender stereotypes cases affected law enforcement's approach to women in Vishaka V State of Rajasthan case, highlighting the importance of being sensitive when it was related to sexual harassment.

In the Nirbhaya case (Mukesh & Anr V State of NCT of Delhi), gender bias was highlighted. The

victim's gender contributed to the brutality receiving disproportionate emphasis thereby raising concerns about the inconsistency of the investigation zeal.

Further, in the State of Punjab V Gurmit Singh, the victim's morality was questioned due to which the court questioned the prejudices and also directed the law enforcement to refrain from making moral judgements in cases that involve sexual assault.

Finally, it was observed by the Court that Sec 498A (which deals with dowry harassment) was abused in the Rajesh Sharma V State of Uttar Pradesh case. This led to prejudices against men as well in situations of domestic abuse. In simple words, a gender-neutral investigation technique is necessary to bring a balance.

In the Priya Patel V State of Madhya Pradesh, the female involvement in crimes that are normally committed by men are not adequately handled due to pre-existing conceptions. This further demonstrated that the criminal justice system struggled with gender stereotypes even today.

The public outcry affected the thorough investigations, giving preference to female victims in ways that imply gender-based discrimination was proved in the Dhanajoy Chatterjee V State of Bengal case. To conclude, it is observed that it is necessary to have impartial investigative procedures to have fair justice for both sexes in the otherwise gender-based biasness that exists in the country.

All the above cases indicate that gender bias exist at the preliminary stage, and it affects the investigation in a negative way. Further, a research paper on Police Response to Rape in Metropolitan India indicated that police responses were often based on discretion rather than being guided by the law (Sharma, 2024). This further proves that the evidence collection is skewed with male victims facing higher discrimination and female victims experiencing either protective handling or questioning based on moral assumptions about their character. To summarise, the neutrality is largely compromised only on basis of gender of the victim. Hence, the investigation is affected, and the quality of justice is compromised.

Gender Bias During Prosecution

It is evident that there exists a strong personal bias that skews the investigation and prosecution based on gender.

While dealing with Section 498A of the IPC dealing with dowry related harassment, there exists a bias against the men throughout the investigation (Rajesh Sharma & Ors V State of Uttar Pradesh). In this case, Supreme Court noted that men could face wrong arrest based on mere allegations, which clearly displays a gender bias during prosecution further highlighting lack of balance. On the contrary, in the case of State of Punjab V Gurmit Singh, that was related to sexual violence, the Court noticed bias against the female victims, as the character of females was questioned regularly in the name of law enforcement. This clearly highlighted the female bias during prosecution and investigation.

The need for gender-sensitive procedures to achieve equal justice was reinforced in Vishaka & Ors. v. State of Rajasthan, where prosecution discretion was influenced by assumptions about women's responsibilities and resulted in an initially dismissive stance towards Bhanwari Devi's assault claims highlighted a strong bias against women community at large. The need for gender-sensitive procedures to achieve equal justice was reinforced in this case.

The Priya Patel V State of Madhya Pradesh case exhibited the difficulty of the legal system to adjust to situations in which women were co-accused of sexual offences since such prosecutions were frequently restricted by traditional gender norms, which results in insufficient justice for all parties.

The Nirbhaya case (Mukesh & Anr. V State of NCT of Delhi) further demonstrated selective prosecution thrust because the case received a great deal of attention due in part to the victim's status as a young lady, which is not always the case for male victims of similar crimes. These instances highlight the necessity for prosecutorial discretion to be applied consistently and without gender biases, which can affect the fairness and efficacy of justice by either unduly protecting or targeting people based on cultural stereotypes.

Gender Bias in Courtroom Proceedings and Judicial Outcomes

Since various case laws prove that gender bias existed during investigation and prosecution, the final verdict in such cases get influenced as well. The judiciary interpretation of laws and application of punishment

may vary based on gender, with women often receiving varying degree of leniency or harsh scrutiny due to social expectations. This is because of the prejudice with respect to women community.

One more aspect to be considered is the fact that the same crime committed attracted varying degrees of punishment due to the gender bias. To illustrate, in case of dowry disputes or thefts, the women got away with lenient punishment and men had to face the wrath of the courts for same crime committed by them. This difference arose due to the protective judicial attitude about women's vulnerability and roles in the society.

In the Rajesh Sharma and Ors V State of Uttar Pradesh, the Supreme Court acknowledged about the harsh punishment meted out to men, prompting the court to mandate preliminary investigations to ensure balanced trials and reduce wrongful convictions.

Due to a bias against women who do not meet the "ideal victim" stereotype, courts may evaluate the credibility of female victims of sexual offences based on their actions. The court condemned procedures that cast doubt on the victim's character in State of Punjab V Gurmit Singh. These practices are based on gendered preconceptions that unfairly examine women's private life rather than the facts of the case. These biases continue to exist despite recent judicial efforts to ban such practices, frequently hindering justice for female victims of sexual violence.

On the other hand, the court's response in the Nirbhaya case (Mukesh & Anr. V State of NCT of Delhi) demonstrated how public involvement and societal views of the female victim's innocence affected the seriousness and urgency of the legal proceedings, leading to a swift trial and severe punishment for the accused. Though appropriate in this instance, such a response frequently does not apply to male victims of similar acts, exposing discrepancies affected by gender biases.

To add to their woes, the 'macho' image of men in the family, makes them vulnerable to judicial assumptions in cases of domestic violence and judgements do not account for individual circumstances of each case.

The court in Priya Patel V State of Madhya Pradesh had to deal with gender prejudice when it came to prosecuting a woman as a co-accused in a rape case because Indian law primarily views sexual offences through the perspective of a male perpetrator. This case demonstrated how difficult it

is for the judiciary to adjust to situations in which gender roles are not conventional, which can result in judicial decisions that are either partial or biased. In addition to the gender bias existing, the intersecting factors of caste and class worsen the situation for the judicial judgement. To illustrate, a lower caste women face compounded bias in case against men of the upper caste, where gender and caste prejudice together to affect the judicial outcome.

These examples demonstrate the necessity of systematic judicial reforms to guarantee gender-neutral legal interpretations and specialised training for judges, which will promote a more equitable legal system. It is also suggested to consider the various other intersecting factors while delivering a judgement. Prejudice related to gender, class, or caste may ruin the fundamental factors of a fair trial resulting in a neutral judgement.

Findings

According to this research, gender stereotypes significantly affect criminal investigation and prosecution in India, hence generating systematic prejudice that shows up at several phases of the judicial system. These ideas come from deeply ingrained patriarchal norms that see women as naturally defenceless and men as naturally aggressive. This makes people feel guilty or victimised because of their gender. Men especially are usually assumed responsible in cases of domestic abuse and dowry harassment; women defendants may be spared depending on perceived fragility or vulnerability, regardless of real responsibility.

In historic decisions as *Rajesh Sharma v. State of Uttar Pradesh* and *State of Punjab v. Gurmit Singh*, when gender views influenced court interpretations, the court also shows gendered thinking. The *Nirbhaya* case brought attention to another issue: how women victims are exposed to character checks using victim-blaming tactics meant to make them seem less credible, which prolongs trials and skews justice.

Men who experience domestic violence or abuse also suffer legal neglect since the law disproportionately favours female protection, therefore creating a void for male or non-binary protections. Often starting at the First Information Report (FIR) level and extending through adjudication, bias in the attitudes of law enforcement

officials and prosecutors remains despite of efforts at reform including statutory changes and court standards.

Suggestions

It is suggested that there must be structural and procedural changes anchored in gender neutrality to correct these errors. The suggestions include:

- Police, prosecutors, and judges should all get mandatory instruction aimed at combating internalised gender stereotypes.
- Changing gender-specific regulations can help to guarantee that all genders—women—are recognised and protected.
- Establishing objective procedural protections that give evidence-based research top priority over gender stereotypes.
- Starting public awareness initiatives to change how legal environments view gender roles.
- Building support systems including legal aid, counselling, and shelters for male and non-binary victims.
- The authors contend that India's legal system cannot advance towards actual equity and justice in criminal adjudication without such structural improvements and cultural transformation.

Conclusion

To summarise, this research paper demonstrates how gender prejudice has affected every aspect of India's criminal justice system, from investigation and prosecution to court decisions.

The extent of gender stereotypes can be understood by the fact that men are assumed guilty and women get the benefit of doubt, being a passive participant, in criminal activity as well as family conflicts. This disparity is evident in the entire criminal justice system. In the *Rajesh Sharma V State of Uttar Pradesh*, the prejudice in the prosecution of men u/s 498A and gender scepticism towards female victim was experienced in the *Punjab V Gurmit Singh* case. Public agitation played a vital role that was displayed during the *Nirbhaya* tragedy which ensured the entire judicial system was quick to respond when female was a victim. It is not necessary that public

agitation would happen with male victims and hence, the judiciary response could be delayed.

The deeply rooted gender biasedness can be experienced in many cases where women were co-accused, and many cases exhibited a lenient approach by the judiciary towards the female defendants that ultimately resulted in biased judicial discretion. This study emphasized the gender viewpoints led to an uneven administration of justice by influencing victims' experiences within the system as well as defendants.

Major social reforms are required in the judiciary as even the judiciary has acknowledged the existence of biasness in decision-making of historic cases like Vishaka V State of Rajasthan to protect female victim or Rajesh Sharma V State of Uttar Pradesh to protect the rights of a male defendant.

A fairer, more equitable criminal justice system in India, where justice is decided by facts rather than gendered presumptions, can only be achieved by putting gender-neutral norms into place, providing impartial judicial training, and raising public awareness.

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Conflict of Interest

The author declares that this research endeavor is free from conflicts of interest. No opinions are influenced by other sources; all are based solely on scholarly research and individual analysis.

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Case Laws

- Dhanajoy Chatterjee V State of Bengal
Nirbhaya case (Mukesh & Anr. V State of NCT of Delhi)
Priya Patel V State of Madhya Pradesh
Rajesh Sharma V State of Uttar Pradesh
State of Punjab V Gurmit Singh
Vishaka V State of Rajasthan