

VOLUME XI

ISSUE-II (APRIL-JUNE 2025)



# QUEST

A Quarterly Journal of the Students published  
by the Indian Institute of Legal Studies

## INDIAN INSTITUTE OF LEGAL STUDIES

UG & Post Graduate Advanced Research Studies in Law  
Approved under Section 2(f) & 12B of the UGC Act, 1956

Accredited by NAAC

Affiliated to the University of North Bengal

Recognized by the Bar Council of India, New Delhi

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## MESSAGE

### FROM FOUNDER & CHAIRMAN'S DESK



#### **SHRI JOYJIT CHOUDHURY**

**Founder & Chairman  
Indian Institute of Legal Studies**

It's been quite some time that I have used my prerogative for penning in a few lines under the Caption "From the desk of the Chairman." The pandemic has Pandemic has probably changed the preferred and known rules in education and it is disheartening to see the once buzzing campuses filled with vibrant and youthful energy being bereft of the exuberance that existed.

If we take a look at the history of the Corona Virus, it originated sometime in the middle of December, 2019 in China at a live seafood market and then spread to the Wuhan area. Gradually, it spread to Italy, U.S.A., Europe and other countries of the world. The affected countries

have been called to take immediate steps to detect, treat and reduce the further spread of the virus to save lives of the people. Presently the COVID-19 is no more confined to China, Italy or U.S.A. It has become a global issue. The economic impact has had devastating and cascading effect world- wide with closure of business entities, rampant job loss coupled with non-existent economic activities putting the lives and the livelihood of a large section of the world's population in peril.

The poor vulnerable daily wage earners and migrant workers are the ones who are worst affected. Concrete measures must be adopted by the governments to provide this section of the population with sustainability incomes or else the world shall witness an increase in the pre-existing inequalities. The Governments must strengthen social protection and livelihood, reorient public finance to augment human capabilities, introduce measures to limit bankruptcies and create new sources of job creation.

To my view, the Pandemic has caused a dramatic and perceived change in the socio-economic structure of the entire world. Millions of wage-earners in the United States have been bugged of leaving their current employment and demanding higher wages and they have chosen to be unemployed if wages are not commensurate with their expectations. This is probably the outcome as to how the pandemic has led to increased inequality and unequal income distribution amongst different

classes. According to Oxfam's "The inequality virus" report in the Indian context, India's billionaires increased their wealth by 35 percent while 25 per cent of the population earned just Rs. 3000 as income per month. The unforeseen and unpredictable nature of the mutant waves have caused immense distortions in the labour market which has exposed the migrant labourers to the destitution of low incomes at their native places or starvation at their outstation job sites.

Research based data shall illuminate us about the devastation caused by cyclical mutant waves in the times to come but in the meantime, we have no choice other than to maintain status quo till the pandemic subsides. It is heartening to see that in spite of closure of many educational institutions, the editorial team has put in their honest efforts to publish the journal in such antagonizing and unprecedented times. I sincerely laud and appreciate their endeavors in making this happen. Wish everybody good luck & health.

A handwritten signature in black ink, appearing to read "J. Choudhury", with a horizontal line underneath it.

**JOYJIT CHOUDHURY**

## MESSAGE

### FROM PRINCIPAL'S DESK



I would like to convey my sincere thanks and congratulate the “Quest Editorial Board” and its contributors for their ethos and time. I believe that this edition will enrich the readers for enhancing their knowledge. In the journey of ‘Quest’ the tireless work of students, teachers and other contributors are appreciated. This edition will focus on the mind of the readers and its reflection spread around the society.

I would also like to thank the students and teachers who have shared their ideas, views, emotions, and expressions for fruitful completion of the journey of “Quest” (this edition), and I hope it will continue in future also. It also serves the purpose of Indian Institute of Legal Studies for which it is meant.

A handwritten signature in black ink, reading "Trishna Gurung", enclosed in a light gray rectangular border.

**Dr. Trishna Gurung**  
Principal-in-charge,  
Indian Institute of Legal Studies

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# LONG ARTICLE



# BALANCING JUSTICE AND WELL-BEING: MEN'S MENTAL HEALTH AND THE LAW



- Biswajit Das<sup>1</sup>

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## ABSTRACT

*Mental health is also encompassed by the right to life as provided under Article 21 of the Constitution of India, but its status in the legal domain needs to be appreciated. Even though the laws like Section 85 of the Bharatiya Nyaya Sanhita and the Protection of Women from Domestic Violence Act, 2005, were enacted to protect women from institutional violence, concerns have been raised regarding their misuse and collateral damage to men's psychological health. This article addresses how unfounded or mistaken criminal allegations are causing a*

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<sup>1</sup> Student of 3 years LL.B, Semester III, Indian Institute of legal Studies, Siliguri, bishal.sharma.5602@gmail.com.

*burgeoning but covert mental illness epidemic among men, with public stigma, lengthy litigation, and presumption of guilt coming together to annihilate liberty and dignity. The article situates the mental health of men in the backdrop of a larger policy and history, starting from ancient Indian civilization that associated welfare with the mind, and tracing recent development from the National Mental Health Programme of 1982.*

*The conclusions reiterate that while protective legislation of women is unavoidable, procedural imbalance and alleged false reporting cases exact heavy psychological as well as social costs to men. The paper advocates for balanced reforms: codifying safeguards against arbitrary detention, mainstreaming measures in mental health care within the criminal justice system, and improving institutional capacity to separate real cases from abuse. Placing men's mental health on the constitutional agenda, this research contributes to the gender justice discussion, promoting a balanced response that safeguards vulnerable populations without entrenching abusive systems.*

**KEYWORDS:** *Mental Health, Legal Misuse, Gender Justice, Article 21.*

# 1. INTRODUCTION

Mental health has emerged as one of the most pressing public health challenges of the 21st century. In India, millions of silent sufferings speak of a sharp crisis: the *National Mental Health Survey of India*,<sup>2</sup> found that close to 11% of Indian adults suffer from diagnosable mental disorders, over 150 million of whom need active intervention while fewer than one in five of them receiving proper care. The cost of this treatment shortfall is severe, suicide rates are too high, social functioning and productivity are restricted, and unnecessarily enormous financial and emotional costs are imposed upon families. The burden is particularly harsh for men, whose difficulties are glaringly evident and concentrated in disproportionately large numbers of married and working-age men. Marital issues and family issues were responsible for a high percentage of male suicides and indicated an intersection of social tensions, legal disputes, and deteriorating mental health, the *National Crime Records Bureau (NCRB)*<sup>3</sup> reported.

The intersection of criminal law and mental health is now an issue of increasing legal and social interest. Legislation passed to protect

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<sup>2</sup> National Institute of Mental Health & Neurosciences (NIMHANS), *National Mental Health Survey of India, 2015–16* (Ministry of Health & Family Welfare, Government of India 2016), <https://main.mohfw.gov.in> (last visited Jan. 6, 2025).

<sup>3</sup> National Crime Records Bureau, *Accidental Deaths and Suicides in India 2020* (Ministry of Home Affairs, Government of India 2021), <https://ncrb.gov.in> (last visited Jan. 6, 2025).

women, like Section 85 of the Bharatiya Nyaya Sanhita<sup>4</sup>, PWDVA,<sup>5</sup> and protection provided under the Sexual Harassment of Women at Workplace Act,<sup>6</sup> have certainly proved beneficial in addressing deep-rooted patriarchal violence. Nevertheless, increasing public discussion highlights those instances where these legislations are alleged to be abused, leading to lengthy trials, stigmatization, and loss of reputation for men. The 2020 NCRB report did mention thousands of such cases under "cruelty by husband and relatives" being closed as false or inadequate evidence or civil in nature. Although it is important to put into perspective that such closures are not always equivalent to willful falsity, the phenomenon has implications concerning procedural justice as well as the psychological consequences to the accused. In *Sushil Kumar Sharma v. Union of India*,<sup>7</sup> the Supreme Court itself recognized abuse of Section 498A to be "legal terrorism." More recently, in *Arnesh Kumar v. State of Bihar*,<sup>8</sup> the Court established checks against arbitrary arrests, seeing the psychological and social cost of unfounded or exaggerated complaints.

This contention grows sharper alarm when seen in the context of

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<sup>4</sup>Bharatiya Nyaya Sanhita, 2023, § 85, repealing Indian Penal Code, 1860, § 498A, No. 45, Acts of Parliament, 2023 (India).

<sup>5</sup> Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).

<sup>6</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India).

<sup>7</sup> *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281.

<sup>8</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

India's broader mental health crisis. Ancient Indian texts like the *Sushruta Samhita*<sup>9</sup> and *Ashtangayoga* had acknowledged the inherent interconnectedness of mental (*chitta*)<sup>10</sup> and somatic health, and cultural significance to this issue. Recent history has brought policy acknowledgement with the introduction of the *National Mental Health Programme* (NMHP)<sup>11</sup> with the aim to integrate mental health with primary care and diminish stigma. The constitutional aspect found its place in later judicial evolution, with the Supreme Court dictating that Article 21<sup>12</sup> included the right to health and mental well-being as an integral part of life, dignity, and freedom (*K.S. Puttaswamy v. Union of India*,<sup>13</sup>; *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*,<sup>14</sup>). Even with such progress, the fate of men who are exposed to the triple jeopardy of social expectation, economic burden, and legal risk remains insufficiently examined in policy and scholarship. This article, therefore, seeks to analyse how the discourse on alleged misuse of women-protective laws intersects with the ignored crisis of men's mental health, and offers balanced doctrinal and policy reforms

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<sup>9</sup> Sushruta, *Sushruta Samhita* (Kaviraj Kunja Lal Bhishagratna trans., 3d ed. 1911).

<sup>10</sup> Patanjali, *Yoga Sutras of Patanjali*, in *Ashtanga Yoga* ch. 1, sūtra 2 (Swami Prabhavananda & Christopher Isherwood trans., 1953).

<sup>11</sup> Ministry of Health & Family Welfare, Government of India, *National Mental Health Programme* (NMHP) (1982), <https://main.mohfw.gov.in> (last visited Jan. 6, 2025).

<sup>12</sup> INDIA CONST. art. 21.

<sup>13</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

<sup>14</sup> *Paschim Banga Khet Mazdoor Samity v. State of W.B.*, (1996) 4 SCC 37.

under Article 21 that guarantee liberty without compromising women's rights.

## 2. MEN'S MENTAL HEALTH IN INDIA (A NEGLECTED CRISIS)

### 2.1 Severity of the Crisis

Mental illness has emerged as one of India's most urgent public health problems. According to the *National Mental Health Survey*<sup>15</sup>, carried out by NIMHANS and the Ministry of Health and Family Welfare, close to **11% of Indian adults have diagnosable mental illnesses**, and more than **150 million require active treatment at a given time**. The treatment gap, ranging between **70% and 92% depending on the disorder**, is the widest globally. In men, the issue is more severe: the risk of mental morbidity over a **lifetime is 16.7%, for women 10.8%**, but institutional and scholarly interest has dropped most unevenly on outcomes for women's health. The NMHS also noted that the most economically productive group, aged **30–49 years**, bears the highest burden of disorders. This combination of high prevalence, inadequate policy attention, and its impact on economic productivity renders men's mental health a structural crisis, though often relegated to the background.

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<sup>15</sup> National Institute of Mental Health and Neurosciences (NIMHANS), *National Mental Health Survey of India, 2015–16* (Ministry of Health & Family Welfare, Government of India 2016), <https://main.mohfw.gov.in> (last visited Jan. 6, 2025).

## 2.2 Help-Seeking Gaps and Barriers

One of the key factors that men are under-served is trends in **help-seeking behavior**. The NMHS reported that while women, despite stigma, are relatively more likely to visit primary health centres, men tend to avoid medical intervention for psychiatric symptoms. Cultural masculinity norms are at play here. In India, Men are constructed as **invincible, strong, and independent**, a self-narrative that prevents them from embracing vulnerability. Studies indicate that men often avoid psychiatrists for fear of being labelled “weak” or socially inadequate, and when they do seek care, it is often late in the course of illness, reducing opportunities for successful recovery. Economic constraints are a factor here too: psychiatric treatment at city private clinics costs **₹1,000–2,000 a month**, an expense beyond the means of large sections of the population. Institutional shortcomings are responsible for exacerbating the problem. India's ratio of patients to psychiatrists stands at around **0.75 per 100,000 population**<sup>16</sup>, which is much less than the **WHO**<sup>17</sup> goal of at least **3 per 100,000**. Rural India, where almost **70% of men reside**, has no or scarce psychiatric services. These impediments lead to long-term underreporting and under-treatment of the mental issues of men.

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<sup>16</sup> NIMHANS, National Mental Health Survey of India, 2015–16, supra note 2.

<sup>17</sup> World Health Organization, *Mental Health Atlas 2017* (WHO 2018), <https://www.who.int/publications> (last visited Jan. 6, 2025).

## 2.3 Stigma and Silence

Mental illness stigma gives Indian men a **double burden**. Individually, projected stigma of being stigmatized as "weak" or "unstable" keeps self-stigma from being openly talked about by many. Social stigma encourages silence externally. Mental illness can threaten **career advancement, marriage prospects, and family reputation**, and thus induces strong disincentives to come forward. Unlike women, whose mental health conditions are often discussed within familial or community frameworks, men are urged to remain silent in a bid to preserve their assumed masculinity. Institutional neglect ensures this silence. Few workplaces offer regular mental health screenings or counselling, and the **National Mental Health Programme (1982)**<sup>18</sup> has faced implementation challenges at the state level, leaving substantial gaps in community-based services. The consequence is that men's mental health emergency continues to be hidden under silences and social denials.

## 2.4 Suicide as a Gendered Reality

The suicide statistics are among the most horrifying signs of men's

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<sup>18</sup> Ministry of Health & Family Welfare, Government of India, *National Mental Health Programme* (NMHP) (1982), <https://main.mohfw.gov.in> (last visited Jan. 6, 2025).

mental health. As per the NCRB's Report, <sup>19</sup> almost a married man commits suicide approximately every eight minutes. Men constitute more than **70% of all suicides in India**, a figure considerably higher than global averages. The most commonly cited reasons for suicides include domestic disagreements, marital failure, financial troubles, and legal troubles. Comparative data from the **WHO**<sup>20</sup> indicate that men of the other South Asian countries, to have disproportionately high rates of suicide as against their women, mirroring the reality that suicide among males is no aberration but a regional pattern on cultural and economic grounds. Such suicides are not clinical depression alone but also the residual strain of litigation, expenses, and social pressures, usually unaddressed by access to mental health care. The **slowness of the justice system** and the **stigma of criminal allegations** frequently drive men into despair spirals.

## 2.5 Psychoactive substance use and risks

Another measure of the mental health crisis in men. NMH<sup>21</sup> found that **35.7% of men** suffer from psychoactive substance use disorders, but

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<sup>19</sup> National Crime Records Bureau (NCRB), *Accidental Deaths and Suicides in India 2021* (Ministry of Home Affairs, Government of India 2022), <https://ncrb.gov.in> (last visited Jan. 6, 2025).

<sup>20</sup> World Health Organization, *Suicide Worldwide in 2019: Global Health Estimates* (World Health Organization 2021).

<sup>21</sup> National Institute of Mental Health and Neurosciences (NIMHANS), *National Mental Health Survey of India, 2015–16* (Ministry of Health & Family Welfare, Gov't of India 2016), <https://main.mohfw.gov.in> (last visited Jan. 6, 2025).

**32.8% of tobacco dependence and 9.1% of alcohol consumption.**

These substances are often used as maladaptive mechanisms to overcome stress, marital problems, or litigation anxiety. They provide temporary relief, but they significantly worsen the mental incidence, leading to a vicious cycle of addiction, health, and social insulation. Families of men suffering from disorders associated with psychoactive substance use often face economic destruction as their household income is not directed towards dependence on happiness. This combined effect deepens the crisis, worsens psychiatric problems, and demonstrates the urgent need for integrated approaches related to substances.

## **2.6 Impact on Families and Society**

The outcome of mental health for abandoned men is beyond human scope. According to the NMHS, families of men suffering from mental disorders have lost up to **20 business days in three months** and are caring for them. This leads to loss of wages, school sessions for children, and chronic family disorders. Raw mental illness in men has an impact between generations. Children who grow up in households with untreated mental fathers are more vulnerable to emotional trauma, educational change and bad socialization. As a result, crisis cannot be rejected as an individual pathology. It is a **social and economic burden** that affects the entire home and therefore a wider community.

## 2.7 Helpline and Service Trends

Human growth in the field of mental health shows an increasing trend. Subscribers often refer to family conflict, isolation, and atrocities as the main stressors. Organizations such as Men Welfare Trust and part of the Save Indian Family Movement<sup>22</sup>, control questions that solve these issues, and highlight the demand for dissatisfaction with gender consultation.<sup>23</sup> This occurs in the context of many public and institutional services supported by states targeting women, leading to debates on potential political asymmetry in the field of mental health. The Mental Healthcare Act<sup>24</sup> officially guarantees access to psychiatric care, but certain vulnerabilities in men are often considered part of formal national policy.<sup>25</sup> Social expectations rooted in men are sustainable, independent, and seeking help create important obstacles.

## 2.8 Policy Progress and Doctrinal Gaps

India's National Mental Health Programme (1982)<sup>26</sup> was the first structured attempt in India to integrate mental health into primary health. Nevertheless, decades of funding shortages and fragmented

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<sup>22</sup> Save Indian Family Foundation, *Support Services and Advocacy for Men in Distress*, <https://www.saveindianfamily.org> (last visited Sept. 19, 2025).

<sup>23</sup> Men Welfare Trust, *Helpline Reports and Annual Review 2021*, <https://www.savefamily.in> (last visited Sept. 22, 2025).

<sup>24</sup> Mental Healthcare Act, 2017, No. 10, Acts of Parliament, 2017 (India).

<sup>25</sup> Manoj Kumar, *Mental Healthcare Act 2017 – Aspiration to Action*, 11 Indian J. Psychol. Med. 1 (2019).

<sup>26</sup> Ministry of Health & Family Welfare, Gov't of India, *National Mental Health Programme (NMHP)*, <https://main.mohfw.gov.in> (last visited Jan. 6, 2025).

implementation end their impact. The Mental Healthcare Act illustrates important doctrinal advances recognizing access to psychiatric health services as a fair right related to constitutional assurances in accordance of life and personal liberty under Article 21<sup>27</sup>. The Supreme Court has reinforced this interpretation: in *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*<sup>28</sup>, the Court held that the right to health is an integral part of Article 21, and in *K.S. Puttaswamy v. Union of India*<sup>29</sup>, the court confirmed dignity as the center of life and implicitly covered spiritual property. Despite these achievements, certain men's crisis remains a doctrinal summary of male suicide, with mental health outcomes rarely being considered. This silence is just as important as the data itself.

### **3. LEGAL FRAMEWORK – WOMEN- PROTECTIVE LAWS AND ALLEGED MISUSE**

Historically, the Indian judicial system has been responsible for correcting entrenched gender-based damages. Laws aimed to protect women from domestic violence, dowry harassment, and sexual offenses have been critical in combating institutional patriarchy. Nonetheless,

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<sup>27</sup> INDIA CONST. art. 21.

<sup>28</sup> *Paschim Banga Khet Mazdoor Samity v. State of W.B.*, (1996) 4 SCC 37.

<sup>29</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

the same frameworks are increasingly at the center of discussions concerning alleged abuse, false accusations, and collateral damage. For men, the legal process frequently becomes a source of stigma, social isolation, and psychological stress, colliding directly with the mental health issues discussed in the preceding chapter. This duality, the necessity for women's safety and procedural fairness, requires a thorough study of both statutory provisions and judicial interpretations.

### **3.1 Section 498A of the Indian Penal Code, 1860**

The Bharatiya Nyaya Sanhita repealed Section 498A of the Indian Penal Code,<sup>30</sup> which criminalized cruelty by husbands and their family. It was enacted in 1983 to recognize dowry deaths, domestic violence, and coercive abuse. The provision was non-bailable and cognizable, serving as a safeguard for women who frequently lacked institutional access.

Over time, however, 498A became a source of contention. Allegations of its abuse—whether through overstated claims, usage as leverage in divorce conflicts, or harassment of extended families have surfaced in both popular debate and judicial reasoning. In *Sushil Kumar Sharma v. Union of India*,<sup>31</sup> the Supreme Court warned against what it referred to as "legal terrorism," stating that a remedy designed to protect could not be used to harm innocent people.

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<sup>30</sup> Indian Penal Code, 1860, § 498A, No. 45, Acts of Parliament, 1860 (India).

<sup>31</sup> *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281.

In response to criticisms, the Bharatiya Nyaya Sanhita, 2023 repealed Section 498A and reintroduced it as Section 85<sup>32</sup>, with minor changes and enlarged meanings. Nonetheless, the basic dilemma remains: while protections are still necessary, the lack of gender-neutral framing and procedural filters invites debate about the balance between protecting women and preventing unjust prosecution.

### **3.2 Protection of Women from Domestic Violence Act of 2005**

The PWDVA<sup>33</sup> expanded the definition of violence beyond physical harm to include verbal, emotional, and financial abuse. It established remedies like as protection orders, residency rights, and maintenance, which are enforced through Magistrate courts. Importantly, PWDVA is civil in form but criminal in enforcement, relying on police processes to carry out orders.

For women, this Act marked a milestone moment in recognizing the multifaceted nature of violence. For men, however, the Act remains unidirectional: only women are recognized as "aggrieved persons," preventing acknowledgment of male victims of domestic abuse. While the data on female victims is overwhelming, the doctrinal absence of men and same-sex partners raises concerns about Articles 14 (equality

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<sup>32</sup> Bharatiya Nyaya Sanhita, 2023, § 85, No. 45, Acts of Parliament, 2023 (India).

<sup>33</sup> Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).

before the law) and 21 (dignity and mental well-being).<sup>34</sup>

### **3.3 Sexual Offences and Gender Framing**

Sexual offenses were drastically altered following the Criminal Law (Amendment) Act,<sup>35</sup> which strengthened women's protections. Sexual harassment, voyeurism, and stalking were criminalized, and victim protection measures were strengthened. The BNS 2023 has kept this gender-specific paradigm by categorizing these offenses as "Offences against Women and Children."<sup>36</sup>

While these laws correct historical negligence, they also perpetuate a gender-exclusive narrative. Men and third-gender people receive minimal recognition when they file complaints or become victims. In contrast, those who have been accused face stigma and procedural hurdles even before they are adjudicated. The lack of gender neutrality complicates the situation, attracting both doctrinal examination and mental health effects for those involved in contentious complaints.

### **3.4 Arrest provisions: CrPC to BNSS.**

Arrest powers under Section 41 CrPC became central to discussions regarding misuse. In *Arnesh Kumar v. State of Bihar*,<sup>37</sup> the Supreme

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<sup>34</sup> INDIA CONST. arts. 14, 21.

<sup>35</sup> The Criminal Law (Amendment) Act, No. 13, Acts of Parliament, 2013 (India).

<sup>36</sup> Bharatiya Nyaya Sanhita, 2023, §§ 64–79, No. 45, Acts of Parliament, 2023 (India).

<sup>37</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

Court advised police personnel not to arrest in 498A cases without a necessity test under Section 41(1)(b) and to give a notice of appearance under Section 41A CrPC. The Court stressed that routine arrests caused irreparable harm to liberty, dignity, and reputation.<sup>38</sup>

These ideas are largely enshrined in the Bharatiya Nagarik Suraksha Sanhita, 2023, which repeals the CrPC. The BNSS seeks to balance complainants' rights with safeguards against abuse by prohibiting pre-emptive arrests and requiring written justification. In terms of mental health, this legal progress shows judicial acknowledgment that arbitrary incarceration can produce trauma.<sup>39</sup>

### **3.5 Mental Healthcare Act of 2017 and the Criminal Justice Interface**

The MHCA established a rights-based framework, making access to mental healthcare a legal entitlement. Section 18 stipulates that everyone has the right to state-funded mental healthcare services. Importantly, Section 115 decriminalized suicide, treating it as a mental health issue rather than a criminal act.<sup>40</sup>

The Act's impact on criminal justice is profound. It states that people with mental illnesses must be treated with dignity and not face

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<sup>38</sup> Code of Criminal Procedure, 1973 §§ 41, 41A, No. 2, Acts of Parliament, 1973 (repealed 2023) (India).

<sup>39</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, §§ 35–40, No. 46, Acts of Parliament, 2023 (India).

<sup>40</sup> Mental Healthcare Act, 2017, §§ 18, 115, No. 10, Acts of Parliament, 2017 (India).

discrimination in legal processes. However, in practice, mental health examination and counselling are rarely included in matrimonial or criminal cases including claims under the PWDVA or 498A/BNS provisions. This gap promotes loops in which litigation exacerbate psychological suffering in the absence of appropriate psychiatric support.

### 3.5.1 Case Law Analysis

- *Sushil Kumar Sharma v. Union of India*<sup>41</sup>: the Supreme Court cautioned against using 498A to harass individuals.
- *Preeti Gupta v. State of Jharkhand*<sup>42</sup>: the Court emphasized the need for “serious reconsideration” to prevent inflated interpretations of minor incidents from causing family harm.
- *Arnesh Kumar v. State of Bihar*<sup>43</sup>: guidelines banned automatic arrests due to the mental and social costs associated with improper confinement.
- *Rajesh Sharma v. State of Uttar Pradesh*<sup>44</sup>: it was suggested to create Family Welfare Committees to evaluate allegations before arrest. While this was later diluted in Social Action Forum for

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<sup>41</sup> Sushil Kumar Sharma v. Union of India, (2005) 6 SCC 281.

<sup>42</sup> Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667.

<sup>43</sup> Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273.

<sup>44</sup> Rajesh Sharma v. State of Uttar Pradesh, (2017) 8 SCC 746.

*Manav Adhikar v. Union of India*<sup>45</sup>, which restored judicial primacy, it nevertheless raised concerns about misuse.

These cases demonstrate an expanding judicial appreciation of the mental, social, and economic suffering caused by challenged charges, while emphasizing that the protection of true victims remains vital.

### **3.6 NCRB Statistics and Contextualization**

According to the NCRB Report,<sup>46</sup> hundreds of cases filed under the category "cruelty by husband or relatives" were closed as false, "error of fact," or "civil disagreement." However, closure does not necessarily mean wilful dishonesty; poor inquiry, witness animosity, or reconciliation may all explain outcomes. This distinction is critical because associating closure rates with bad intent risks weakening legitimate complainants. At the same time, these figures indicate structural weaknesses, in which families—often entire households—are entangled into lengthy criminal proceedings that may eventually collapse, leaving significant psychological scars.

**3.6.1 Impact on Men's Mental Health:** The impact of these statutes on men's mental health is significant. Even if acquitted, allegations can lead to depression, anxiety, professional hardship, and social ostracism. Qualitative research and helpline reports show that men accused under

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<sup>45</sup> Social Action Forum for Manav Adhikar v. Union of India, (2018) 10 SCC 443.

<sup>46</sup> National Crime Records Bureau (NCRB), *Crime in India 2020* (Ministry of Home Affairs, Gov't of India 2021), <https://ncrb.gov.in> (last visited Jan. 6, 2025).

498A or domestic violence laws often experience suicidal ideation and family breakdowns. The stigma of being labelled as "cruel" or "abusive" is uncommon.<sup>47</sup>

### **3.7 Critical Reflection: Balancing Doctrinal Tensions**

The debate is not about rejecting the structural problems women face—dowry deaths, intimate partner violence, and sexual harassment remain pervasive. Rather, it is about ensuring that procedural design does not unintentionally weaponized the law to produce new injustices. Comparative experience provides guidance: the UK's Protection from Harassment Act<sup>48</sup> uses gender-neutral language, whereas South Africa's Sexual Offences Act<sup>49</sup> extends to both genders. India's dilemma is to protect vulnerable women while also offering constitutional fairness under Articles 14 and 21 of the constitution to men facing contested complaints.

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<sup>47</sup>Abhishek Chaturvedi & Avinash Singh, Mental Health of Men Facing False Allegations under Section 498A IPC: An Exploratory Study, 62 *Indian J. Psychiatry* S726, S728–29 (2020) (last visited Jan. 6, 2025).

<sup>48</sup> Protection from Harassment Act, 1997, c. 40 (U.K.).

<sup>49</sup> Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (S. Afr.) (last visited Jan. 6, 2025).

## **4. THE PSYCHOLOGICAL AND SOCIAL IMPLICATIONS OF FALSE ALLEGATIONS ON MEN**

The experience of facing a criminal allegation is stressful for everyone, but the psychological and social consequences are especially harsh when the allegation is eventually proven to be false. Men accused of violating women's rights laws frequently face consequences that go far beyond the courts. Empirical studies, official crime records, and anecdotal testimonies all show that false or unfounded allegations can have long-term consequences for mental health, occupational stability, family structures, and community relationships. While it is important to recognize that these laws protect women from systemic violence, it is also critical to investigate how alleged abuse generates comparable risks for men.

### **4.1 Psychological Burden and Suicidality**

False allegations can cause severe psychological discomfort, such as depression, anxiety, post-traumatic stress, and social withdrawal. According to studies, being wrongly accused can cause significant and long-term trauma. According to statistics from India's National Crime

Records Bureau (NCRB) <sup>50</sup> , "family troubles" and "marital disagreements" are the primary causes of suicide.

While some men's rights organizations directly link these figures to fraudulent claims, this conclusion requires further investigation. The NCRB data does not identify the percentage of suicides caused by false claims against other factors such as financial difficulties, abuse by family members, or voluntary separation. It is also worth noting that many males endure severe social stigma while seeking mental health care, which increases their vulnerability to psychological injury.

## **4.2 Occupational and Professional Fallout**

Criminal accusations, even if later proven unfounded, can have major consequences for an individual's professional life and reputation. Accused persons may face job suspension, rejection of promotions, or social ostracism in the workplace, with the stigma generally persisting even after acquittal. A summary of a systematic literature study on unjust charges underlines the "severe impact" on mental health, which frequently prevents people from continuing their work or social activities.

Long-term litigation imposes a significant economic and financial burden, which adds to psychological strain. Contested marriage

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<sup>50</sup> National Crime Records Bureau (NCRB), Accidental Deaths and Suicides in India 2021 (Ministry of Home Affairs, Gov't of India 2022), <https://ncrb.gov.in> (last visited Jan. 6, 2025).

disputes, for example, can result in legal bills that exceed personal savings. A 2018<sup>51</sup> examination of such cases in Delhi district courts discovered significant attorney fees, indicating the financial strain involved in these legal battles.<sup>52</sup> Financial difficulties, along with reputational damage, can worsen emotional discomfort, producing a vicious cycle of uncertainty and struggle.

### **4.3 Social Stigma and Family Disruption**

False charges can result in considerable societal shame and damage of family relationships. Individuals who are wrongfully accused, together with their relatives, may face social isolation and reputational loss. Criminal allegations can have a long-term influence on a family's social position, even if they are eventually acquitted. In *Arnesh Kumar v. State of Bihar*,<sup>53</sup> the Supreme Court of India has emphasized the possibility of misleading implications, notably under Section 498A of the IPC, as well as the risk of harassment directed at the accused's relatives.

It is critical to note that women who disclose true domestic abuse face significant social shame and family pressure in many sectors of Indian society. The social and emotional burden is not limited to people

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<sup>51</sup> Singh, R., *Economic Costs of Matrimonial Litigation in Delhi District Courts: An Empirical Study* (2018) (last visited Jan. 6, 2025).

<sup>52</sup> Law Commission of India, *Report on Family Disputes and Litigation Costs in Delhi District Courts* 37–39 (2018) (last visited Jan. 6, 2025).

<sup>53</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

wrongly accused; it is a common concern in the larger context of family disputes.

#### **4.4 NCRB Data and Relevant Caveats**

NCRB data adds quantitative context to the debate. In 2020, police closed thousands of charges submitted under Section 498A's sexual assault provisions, stating "false," "mistake of fact," or "civil dispute." However, it is critical to contextualize these figures. Closure or acquittal does not imply willful falsification; reasons like as poor investigation, lack of corroboration, or reconciliation may all explain outcomes.<sup>54</sup>

Nonetheless, most cases that do not result in convictions indicates the process's disruptive potential. As the Supreme Court stated in *Arnesh Kumar v. State of Bihar*<sup>55</sup>, the "process of arrest itself might be punishing," inflicting social and psychological consequences no matter the outcome of the trial.

#### **4.5 Anecdotal stories and ethical case studies.**

Anecdotal accounts and ethical case studies add a human element to the discussion over false claims. One high-profile case concerned

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<sup>54</sup> NCRB, Crime in India 2020 (Ministry of Home Affairs, Gov't of India 2021), <https://ncrb.gov.in> (last visited Jan. 6, 2025).

<sup>55</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC273.

Bengaluru IT expert **Atul Subhash**<sup>56</sup>, who allegedly committed suicide in December 2024 after alleging harassment from his ex-wife and her family using fake Section 498A charges. Such instances are regularly used by men's rights organizations to demonstrate the abuse of protective laws. Similarly, examples of extortion using fraudulent sexual harassment charges have been reported. In 2021, NDTV <sup>57</sup> reported on a lady in Gurugram who allegedly submitted bogus rape charges for financial benefit. These occurrences, together with deaths tied to alleged bogus charges, emphasize the long-term shame and psychological trauma inflicted on accused individuals, even when charges are eventually withdrawn.

## **4.6 Empirical Research and International Perspectives**

The psychological consequences of false allegations, such as anxiety, sadness, and post-traumatic stress, are supported by empirical studies. Systematic reviews show a link between false allegations and increased suicidal thoughts, marital dissolution, and vocational disruption. According to the *Vidhi Center*<sup>58</sup>, India currently lacks a legal framework that compensates people who were unjustly imposed and

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<sup>56</sup> Bengaluru IT Professional Atul Subhash Dies by Suicide, Alleges Harassment by Wife's Family in Note," *The Hindu* (Dec. 2024) (last visited Jan. 6, 2025).

<sup>57</sup> NDTV, Gurugram Woman Arrested for Filing False Rape Cases for Extortion, <https://www.ndtv.com> (last visited Jan. 6, 2025).

<sup>58</sup> Vidhi Centre for Legal Policy, Revisiting Compensation for Wrongful Prosecution in India (2018), <https://vidhilegalpolicy.in> (last visited Jan. 6, 2025).

imprisoned. In comparison, the United Kingdom <sup>59</sup> has legislative provisions for compensation, but structured psychological rehabilitation is still rare globally. These findings highlight the significance of incorporating post-trial support and reparation to alleviate the severe social, emotional, and professional consequences of false claims.

## **4.7 Criminal Stigma and Mental Health Decline**

The label "accused" carries significant social stigma and psychological effects. The concept of "criminal labelling," as expressed by sociologist Howard Becker<sup>60</sup>, emphasizes that once society labels an individual as deviant, they may face enduring social and personal challenges regardless of legal consequences. This stigma may be particularly severe for men accused of violating women's rights laws, upsetting traditional standards of manhood, morality, and family honor.

Chronic exposure to such labelling can lead to long-term mental health issues such post-traumatic stress disorder (PTSD), anxiety, substance misuse, and marital dysfunction. The effects frequently extend beyond the individual, including intergenerational consequences: children of accused individuals may experience social isolation, bullying, and increased psychological anguish, while families may suffer reputational injury and social rejection. In *S. Rajasekaran v. State of T.N.*,

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<sup>59</sup> Criminal Justice Act, 1988, c. 33, § 133 (U.K.).

<sup>60</sup> Howard S. Becker, *Outsiders: Studies in the Sociology of Deviance* (1963) last visited Jan. 6, 2025).

recognizing reputational harm and stigma as a constitutional concern.<sup>61</sup>

## 4.8 Analytic Reflection

The cumulative data suggests that extended legal proceedings and public stigma caused by baseless claims have significant psychological, social, and economic consequences. It is essential to distinguish both intentionally fabrications and unjust accusations resulting in an insufficient investigation. The Supreme Court <sup>62</sup> of India has acknowledged that "the process of arrest itself can be punishing," emphasizing the mental and social pressures on accused individuals regardless of trial outcomes.

Recognizing these consequences does not undermine the importance of women's protection laws; rather, it emphasizes the need for procedural safeguards, mental health treatment, and rehabilitation for acquitted individuals, in accordance with Article 21<sup>63</sup> of the Constitution. The BNS<sup>64</sup> offers legal remedies, such as counter-filing for defamation or perjury and seeking restitution. However, obstacles exist, most notably a lack of psychological facilities and inadequate legal professional training. A collaborative effort between the judicial system and society is required to alleviate these multifaceted harms while protecting justice and constitutional ideals.

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<sup>61</sup> S. Rajasekaran v. State of T.N., (2014) 10 SCC473 (India).

<sup>62</sup> Arnesh Kumar v. State of Bihar, (2014) 8 SCC273 (India).

<sup>63</sup> INDIA CONST. art. 21.

<sup>64</sup> Bharatiya Nyaya Sanhita, 2023, § 2, No. 45, Acts of Parliament, 2023 (India).

## 5. BALANCING WOMEN'S PROTECTION WITH MEN'S RIGHTS

One of the most pressing challenges in India's legal system today is balancing the protection of women from entrenched gender-based violence while also protecting men from the mental, social, and legal consequences of alleged misuse of protective laws. The goal is not to create a false equivalence between women's systematic victimization and men's episodic vulnerabilities, but rather to construct a framework of justice that protects everyone's dignity, liberty, and mental health. The Constitution mandates this balance in Article 21, which guarantees both protection from violence and protection against arbitrary deprivation of liberty.

### 5.1 Police Training and Procedure Safeguards

Most domestic and marital problems begin with police intervention. Their involvement is critical in determining whether a complaint leads to justice or is a cause of unneeded anguish. In *Arnesh Kumar v. State of Bihar*<sup>65</sup>, the Supreme Court warned against automatic arrests under Section 498A IPC, stating that "arrest should not be automatic" and requiring police to record particular reasons before employing such powers. Similarly, in *Rajesh Sharma v. State of Uttar Pradesh*<sup>66</sup>, the

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<sup>65</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC273.

<sup>66</sup> *Rajesh Sharma v. State of Uttar Pradesh*, (2017) 8 SCC746.

Court proposed structural safeguards, including preliminary inspection by Family Welfare Committees, albeit subsequent rulings modified this approach.

Mandatory pre-arrest inquiries, supported by thorough police training in gender sensitivity and procedural justice, provide a potential solution. Such training should highlight diverse approaches, ensuring that real complainants are not discouraged while also avoiding unwarranted arrests that cause significant psychological and reputational harm to the accused.

## **5.2 Legal Aid and Counselling for the Accused**

Access to justice involves more than just legal representation; it also necessitates psychological endurance. Multiple empirical research have shown that false or unfounded allegations frequently result in sadness, anxiety, and suicidal ideation <sup>67</sup> . However, India's current legal assistance infrastructure is inadequate for providing integrated psychosocial support.

Including mental health counsellors at legal aid clinics and ensuring that accused individuals, particularly those acquitted or discharged, have access to counselling would reduce long-term harm. Such measures would not undermine women's rights; rather, they would humanize the legal system by recognizing that mental health is a universal problem,

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<sup>67</sup> Malathesh, B.C. et al., Psychological Impact of False Allegations in India: A Clinical Study, 63 Indian J. Psychiatry 293 (2021)( last visited Jan. 6, 2025).

not a gendered privilege.

### **5.3 Data Collection and Balanced Victim Support**

The lack of detailed data on results for both complainants and accused has long been a source of contention in policy discussions. While NCRB <sup>68</sup> reports give statistics on case closures and acquittals, they rarely address the mental health, social, or economic impact on the families involved. Collecting gender-disaggregated data on mental health implications, trial duration, and rehabilitation outcomes will help policymakers respond more effectively.

At the same time, victim-support services for women, such as shelters, legal help, and trauma counselling, must continue to be robust. A balanced system does not barter off women's rights for men's rights; rather, it strengthens both by ensuring that no one is left out by the law.

### **5.4 Accountability for Proven False Complaints.**

Accountability procedures for obviously false complaints have both deterrent and restorative effects. Indian criminal law already includes provisions for punitive repercussions for misleading evidence and malicious prosecution, although these are rarely used in the context of suspected exploitation of women's protection legislation.

Judicial explanation is required to distinguish between (a) cases closed

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<sup>68</sup> National Crime Records Bureau (NCRB), Crime in India 2020 (Ministry of Home Affairs, Gov't of India 2021), <https://ncrb.gov.in>. (last visited Jan. 6, 2025).

owing to a lack of evidence or reconciliation, and (b) cases found to be willfully fraudulent. Only in the latter case should accountability be required. This approach avoids equating acquittals with willful untruth while emphasizing how misuse affects both men's justice and the legitimacy of women's protection measures.

## **5.5 Mental Health Support for the Accused**

Legal reform should clearly incorporate mental health safeguards into criminal proceedings. Psychological screening of accused individuals, confidential helpline access, and mandated referral for psychiatric treatment in lengthy trials would all minimize the likelihood of suicidality and chronic suffering. Such activities are consistent with the Mental Healthcare Act,<sup>69</sup> which establishes access to mental health care as a statutory right, as well as the court recognition in *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*<sup>70</sup> that health is an essential component of Article 21. In *State of Haryana v. Bhajan Lal*,<sup>71</sup> the court laying guidelines for quashing FIRs to prevent abuse of criminal law.

## **5.6 Providing genuine protection for women.**

While implementing measures against abuse, it is vital to emphasize the

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<sup>69</sup> Mental Healthcare Act, 2017, § 18, No. 10, Acts of Parliament, 2017 (India).

<sup>70</sup> *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC37.

<sup>71</sup> *State of Haryana v. Bhajan Lal*, 1992 Supp. (1) SCC335.

importance of women's protection. India continues to have high rates of dowry-related harassment, domestic violence, and sexual assault, much of which goes unreported for fear of stigma or punishment. The existence of claimed misuse does not diminish the structural harms. Reforms must therefore be cumulative, not subtractive, enhancing procedural fairness without weakening fundamental rights for women. In *Sushil Kumar Sharma v. Union of India*<sup>72</sup>, the Supreme Court properly defined the notion, warning that Section 498A "is supposed to be employed as a shield rather than an assassin's weapon." This dual understanding of women's vulnerability and capacity for abuse continues to serve as a guiding ideology for balanced reform.

## 5.7 Comparative Perspectives

India's issues are not unique. In the United Kingdom, laws like the Protection from Harassment Act<sup>73</sup> are gender-neutral, ensuring that safeguards apply to all residents. Simultaneously, procedural measures such as independent inspection before prosecution in sexual offences strike a balance between the rights of complainants and the accused. In the United States<sup>74</sup>, restraining order and sexual offense statutes prioritize time-bound hearings, strong legal representation for the accused, and trauma-informed assistance for complainants.

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<sup>72</sup> *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC281.

<sup>73</sup> Protection from Harassment Act, 1997, c. 40 (U.K.).

<sup>74</sup> Violence Against Women Act, 42 U.S.C. §§ 13701–14040 (2018).

These comparative experiences show that it is possible to create balanced frameworks that protect victims while also preventing abuse—without downplaying the gravity of either concern.

## **5.8 Analytical reflection**

The approach to balance is through procedural safeguards, mental health integration, and institutional responsibility. A court system that simply protects one side of the gender divide undermines public trust, but one that balances rights across genders strengthens credibility and sustainability.

It might be argued that understanding men's vulnerabilities in the legal system does not undermine women's problems, but rather improves justice by assuring fairness for all. The goal is not equal suffering, but equal dignity, which will be attained through measures that protect women from true injury while protecting males from wrongful criminalization and psychological collapse.

# **6. POLICY RECOMMENDATIONS**

## **6.1 Policy recommendations**

The cohabitation of robust women's protection measures and reasonable safeguards for males is a constitutional need under Article 21, which guarantees all individual's dignity, liberty, and mental well-being. Based on court precedents, empirical evidence, and comparative

perspectives, the following proposals arise:

### **6.1.1. Mandatory pre-arrest inquiry:**

The protections outlined in *Arnesh Kumar v. State of Bihar*<sup>75</sup> must be properly enforced. Police should not use arrest powers arbitrarily, but should record precise reasons, conduct pre-arrest investigations, and seek supervisory clearance. This assures procedural justice while eliminating the anguish associated with arbitrary imprisonment. Mechanisms suggested in *Rajesh Sharma v. State of Uttar Pradesh*<sup>76</sup>, such as Family Welfare Committees, notwithstanding later modifications, reflect the judiciary's acknowledgment of the need for checks before criminalization.

### **6.1.2. Integration of Mental Health Support:**

Suicidality, sadness, and anxiety are common among accused men throughout long trials, according to empirical studies and NCRB data. Legal aid organizations must incorporate psychological counselling services to ensure that accused people receive support from the beginning of the investigation to the end. Such integration is consistent with the Mental Healthcare Act,<sup>77</sup> which makes mental health a statutory right.

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<sup>75</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC273.

<sup>76</sup> *Rajesh Sharma v. State of Uttar Pradesh*, (2017) 8 SCC746.

<sup>77</sup> Mental Healthcare Act, 2017, §§ 18, 115, No. 10, Acts of Parliament, 2017 (India).

### **6.1.3. Training for Police and Judiciary:**

Building capacity is vital. Police and judicial professionals should be taught in gender-sensitive investigation techniques that safeguard legitimate complainants while upholding the presumption of innocence. Training modules must contain NMHS<sup>78</sup> findings, NCRB<sup>79</sup> trends, and best practices from other jurisdictions to foster balanced, evidence-based responses.

### **6.1.4. Amendments to the Misuse Provisions:**

Current penalties for malicious prosecution are underutilized. Legislators should clarify evidentiary standards to differentiate between acquittals due to insufficient investigation and cases shown to be contrived. Accountability for false complaints should be enforced in a calibrated manner that does not undermine women's rights under statutes such as the PWDVA<sup>80</sup> or BNS Section 85 (previously 498A IPC)<sup>81</sup>.

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<sup>78</sup> National Institute of Mental Health and Neurosciences (NIMHANS), National Mental Health Survey of India, 2015–16 (Ministry of Health & Family Welfare, Gov't of India 2016), <https://main.mohfw.gov.in> (last visited Jan. 6, 2025).

<sup>79</sup> National Crime Records Bureau, Crime in India 2022: Statistics (Ministry of Home Affairs, Govt. of India 2023), <https://ncrb.gov.in/en/crime-india> (last visited Jan. 6, 2025).

<sup>80</sup> Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).

<sup>81</sup> Bharatiya Nyaya Sanhita, 2023, § 85, No. 45, Acts of Parliament, 2023 (India).

### **6.1.5. Balanced Data Collection and Victim Support:**

Agencies like NCRB must disaggregate data to consider the impact on both complainants and accused. Simultaneously, victim-support mechanisms for women—shelters, financial assistance, and trauma counselling—must stay strong. Reforms must increase safety for women while also providing safeguards for males, maintaining credibility on both sides.

## **7. CONCLUSION**

The purpose of this study was to look at how false criminal complaints and perceived misuse of women's protection legislation link with India's men's mental health crisis. The findings highlight a dual reality: on the one hand, women continue to face systemic violence and structural disadvantages, necessitating strong statutory protection; on the other hand, men who are falsely accused or caught up in lengthy litigation suffer severe psychological distress, social stigma, and even suicidality. From ancient Indian awareness of "**chittavrittinirodha**" in **Ashtangayoga** to the National Mental Health Programme and the Mental Healthcare Act, mental well-being has been a policy issue, but men's unique vulnerabilities have received little attention. Data from the NMHS and the NCRB suicide reports demonstrate that married and working-age men bear a disproportionate burden, which is often worsened by legal entanglements.

Judicial precedent acknowledges the risks of misuse. In *Sushil Kumar Sharma v. Union of India*, the Court advised that protective measures must be used as shields rather than swords. Later, in *Arnesh Kumar and Rajesh Sharma*, the judiciary enacted safeguards against unjustified arrests and prosecution, reflecting the constitutional requirement for balance. However, systemic gaps in implementation and a lack of comprehensive mental health assistance exacerbate silent suffering.

Comparative perspectives support this point. The UK Protection from Harassment Act has a gender-neutral approach, but US restraining order regimes provide due process protections alongside victim safeguards. These models show that strong victim protection and fair treatment for the accused are not mutually exclusive aims.

Future reforms must be cumulative rather than subtractive. Women's rights must not be compromised, but men's mental health and procedural dignity must no longer be overlooked. A balanced approach under Article 21 requires: (a) procedural safeguards such as pre-arrest investigations; (b) institutionalized mental health support; (c) accountability for demonstrable abuse; and (d) capacity building for justice institutions.

Finally, the measure of a just legal order is how it protects the vulnerable while simultaneously preventing injustice through overreach. The only approach consistent with India's constitutional ethos is to practice jurisprudence that protects without prejudice,

supports without stigma, and seeks justice without abandoning compassion.

Balanced reforms, therefore, are not a diminution of women's rights, but rather a strengthening of justice itself—a reminder that to protect dignity, the law must be faithful to all its citizens.

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*“Protecting women from violence and safeguarding men from misuse are not opposing goals; both are essential to justice under Article 21.”*

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# GUARDIANS OF THE STREETS: THE LEGAL STRUGGLE OF DELHI'S STREET DOGS



- Tenzin Thinlay Bhutia<sup>82</sup>

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## ABSTRACT

*The 2025 stray dog crisis in Delhi highlighted the complex balance between public health, animal welfare, and constitutional responsibilities. With an estimated 8–10 lakh street dogs in the city and nearly 37 lakh bite cases reported across India in 2024, growing fears of rabies caused widespread anxiety. On 11 August 2025, the Supreme*

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*Court directed the permanent relocation of all strays to shelters, suspending the catch–sterilize–vaccinate–release (CNVR) method mandated under the Animal Birth Control Rules, 2023. This decision conflicted with the Prevention of Cruelty to Animals Act, 1960, Article 51A (g) of the Constitution, and the principle of Audi Alteram Partem. Following public opposition, the Court issued a corrective order on 22 August, reinstating CNVR, designating feeding zones, and reaffirming the right to life of animals under Article 21. The objective of this study is to assess shortcomings in India’s framework for street dog management, particularly weak penalties, poor enforcement, and inadequate sterilization facilities. It also draws on lessons from Bhutan, the Netherlands, and community-led initiatives in Darjeeling. Based on these models, the paper proposes reforms to strengthen legal safeguards, expand veterinary services, and encourage community participation. The aim is to present humane and practical strategies that protect public health while upholding animal rights, consistent with constitutional values and compassionate governance.*

**KEYWORDS:** *Pariah Dog, Cruelty, Animal Birth, Street dogs, Animal protection.*

# 1. INTRODUCTION — THE UNSEEN FRIENDS OF OUR COMMUNITIES

When we call India our motherland, we must remember that animals, too, are her children and deserve our care and respect. Among them, street dogs are often perceived as a nuisance, yet they quietly play a vital role in our lives. At night, when families sleep, they stay awake, barking at strangers and warning us of danger. They walk the empty streets, acting as natural guards, and eat food waste, which helps keep the city clean and controls the rat population. In many ways, they are not just strays—they are the silent guardians of our streets.

Most of these dogs belong to the **Indian Pariah Dog** (*Canis familiaris*), one of the world’s oldest breeds. They are also known as the South Asian Pariah Dog, Desi Kutta, Indie Dog, or In-dog. The name “*Pariah*” was given during the British Raj, linked to the Pariah tribe of the Madras Presidency. It is derived from the Anglo-Indian word *pye* or *paë* and the Hindi word *pāhī*, which means “*outsider*.” Over time, people preferred names like Desi Dog or Indie Dog, highlighting their native roots. Far from being outsiders, they have coexisted with humans in India for over 4,500 years.<sup>83</sup> What makes them special is their strength and loyalty. They have natural disease resistance, adapt easily to local food, and need very little care. They are

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<sup>83</sup> *Indian Pariah Dog*, Dogell, <https://dogell.com/en/dog-breed/indian-pariah-dog> (last visited Sept. 21, 2025).

intelligent, protective, and form strong bonds within their packs and our communities. Today, they make up nearly 80–90% of India’s street dog population.

In 2025, fear of rabies led to calls for their removal. The country’s 12 lakh street dogs contributed to over 26.7 lakh bite incidents reported by July 31 2025, alone<sup>84</sup>, but many experts warned that removing them would harm the natural balance they bring to cities.

The real question is whether we should remove these animals or learn to care for them responsibly. The choice we make will determine if they will continue as faithful guardians of our streets, rather than unwanted strays. Echoing the timeless wisdom of Mahatma Gandhi, “*The greatness of a nation and its moral progress can be judged by the way its animals are treated.*” “By showing kindness and managing street dogs thoughtfully, we can ensure they remain loyal companions, protect our communities, and enrich the lives of our colorful streets.

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<sup>84</sup> RTI Data on Dog Bite Cases in India 2025 Exposes Failure of Control Programmes, OpIndia, <https://www.opindia.com/2025/09/opindia-exclusive-stray-dog-menace-india-worsening-rti-reveals-26-lakh-cases-7-months-crores-victims-over-years-abc-rules-complete-failure/> (last visited Sept. 16, 2025).

## 2. SACRED COMPANIONS — THE INDIAN PARIAH DOG IN MYTHOLOGY, CULTURE AND TRADITION

When six-year-old Chavi Sharma was attacked by a rabid dog in Delhi's Pooth Kalan, the tragedy sparked familiar debates about public safety versus animal welfare. Yet this modern crisis reflects an ancient moral dilemma: how do we balance human needs with our duty towards other living beings? The answer lies not in foreign legal concepts but in India's own spiritual heritage, where dogs have held sacred status long before any law was written.

### 2.1 Ancient Bonds: A Partnership Written in Time

Long before the codification of animal welfare, Indian households had embraced dogs as companions, offering them a place in both home and heart. Archaeological discoveries at Harappan sites, including a preserved dog skull at Mohenjo-daro (2600–1600 BCE), reveal that Indian Pariah Dogs were not merely surviving alongside humans but were cherished as family members<sup>85</sup>. These ancient companions were buried with the same tender care given to human relatives, revealing bonds of genuine love that have endured for over 4,500 years.

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<sup>85</sup> *Archaeological Record for the Domestic Dog *Canis familiaris* in India*, InDog Project, <https://indog.co.in/archaeological-record-for-the-domestic-dog-canis-familiaris-in-india/> (last visited Sept. 17, 2025).

Today, when Delhi residents fondly describe how "their" neighborhood dogs recognize familiar faces or protect local children, they are witnessing the same devotion that once characterized Harappan households. It's a timeless thread that connects different civilizations.

## **2.2 Dogs in Hindu Scriptures - Sacred Verses That Touch the Heart**

Hindu scriptures beautifully celebrate dogs through powerful verses that still inspire us today:

**2.2.1 Rigveda (Mandala 5, Hymn 45, Verse 8):** *"During the sacred dawn hours, Sarama, by traveling on the path of truth, recognized and found the stolen cows."*<sup>86</sup>

What makes this verse moving is how Sarama, Indra's divine dog, is honored for walking the path of truth, reminding us that loyalty and courage in serving righteousness make any being sacred.

**2.2.2 Bhagavad Gita (Chapter 5, Verse 18):** *"The truly wise see with equal love a learned priest, a gentle cow, a majestic elephant, a loyal dog, and even a dog eater."*<sup>87</sup>

This teaching is timeless because it shows us that enlightened souls honor the same spark of divinity in all, whether human or animal.

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<sup>86</sup> *Rig Veda, Mandala 5, Hymn 45, Verse 8*, in Ralph T. H. Griffith, *The Hymns of the Rig Veda (1896)*, [https://dharmaWiki.org/index.php/Sarama\\_\(सरमा\)](https://dharmaWiki.org/index.php/Sarama_(सरमा)) (last visited Sept. 17, 2025).

<sup>87</sup> A. C. Bhaktivedanta Swami Prabhupāda, *Bhagavad-gītā As It Is* 5.18 (1983) (last visited Sept. 17, 2025).

## 2.3 Sacred Stories: Dogs as Divine Teachers

Indian literature does not just mention dogs—it celebrates them as symbols of humanity's highest ideals. The Mahabharata's most moving moment comes at its end, when King Yudhishtira faces a choice between heaven and his faithful canine companion. When the god Indra refuses the dog entry into heaven, Yudhishtira's response echoes through eternity: "*If it does not deserve heaven, then neither do I.*"<sup>88</sup> The dog's transformation into Dharma himself reveals a profound truth that the divine love manifests most clearly in our compassion toward the vulnerable.

The Kukkura Jataka tells of the Buddha's past life as a loyal dog who saved stray dogs from being wrongly blamed and killed. When the king's carriage leather was damaged, he ordered all stray dogs to be killed. But the wise dog showed that it was the palace dogs who caused the damage.<sup>89</sup> This story teaches us that wisdom, loyalty, and justice can come from any being, and reminds us to treat all creatures with kindness.

Perhaps most touching is Guru Har Rai, the seventh Sikh Guru, who in the 17th century founded an Ayurvedic hospital and animal sanctuary at Kiratpur Sahib. He cared for sick and injured animals, treating them

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<sup>88</sup> Story of Yudhishtira's dog – Tale from Mahabharat, Dog with Blog, <https://dogwithblog.in/story-of-yudhishtira-dog-mahabharat/> (last visited Sept. 17, 2025).

<sup>89</sup> *Kukkura Jataka (Jataka Tale No. 22)*, The Jataka Tales, <https://thejatakatales.com/kukkura-jataka-22/> (last visited Sept. 17, 2025).

with herbal medicines before releasing them back to the wild.<sup>90</sup> His compassionate initiative was groundbreaking, reflecting his belief that human resources should be devoted to healing all creatures, especially those unable to repay kindness.

## **2.4 Living Celebrations: Dogs as Honored Guests**

The beautiful concept comes alive during “*Kukur Tihar*”, the joyful “*Dog Festival*” celebrated across Nepal, Sikkim, West Bengal, and increasingly throughout northeastern India. On this sacred day, both beloved pets and humble street dogs receive identical honors—marigold garlands, red tika marks on their foreheads (ceremonial marks), and special offerings of meat, milk, and treats. The festival honors dogs as sacred messengers of Yama, the god of death, showing their role as loyal companions even in the final journey of life. Recently, even metropolitan cities like Bengaluru have embraced these celebrations, recognizing dogs' vital contributions to urban life.

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<sup>90</sup> Guru Har Rai Sahib: An Unforgettable Indian, *Environment India Blog* (Jan. 31, 2021), <https://environmentindia731827759.wordpress.com/2021/01/31/guru-har-rai-sahib-an-unforgettable-endian/> (last visited Sept. 17, 2025).



*Celebrating Kukur Tihar reminds us that every dog, whether pedigreed or street, is cherished with equal love and dignity, honored with garlands, tika, and offerings.<sup>91</sup>*

Lastly, in Hinduism, dogs are seen as sacred in Kala Bhairava's vahana, Dattatreya's four dogs representing the Vedas, and Yama's hounds. They symbolize loyalty, dharma, and unconditional love. Caring for stray dogs today reflects this ancient compassion, following examples like Yudhishtira's and Guru Har Rai's seva. Today, as Delhi's courts shape street dog policies, they determine whether modern India upholds this tradition of compassion. These dogs remind us that true greatness lies in caring for those who cannot speak for themselves.

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<sup>91</sup> Photographs provided by the author's friends during the 2025 Kukur Tihar celebrations (on file with the author).

## 3. CONSTITUTIONAL ROOTS, STATUTORY BRANCHES

Street dogs are an inseparable part of India's communities, but their protection needs more than goodwill. Supported by constitutional rights, welfare laws, and judicial rulings, they have the right to live free from cruelty. This framework strikes a balance between compassion and public safety, promoting humane, science-based management over harsher methods.

### 3.1 Constitutional Foundation: Rights Extended Beyond Humans

The constitutional protection for street dogs begins with **Article 21**, which guarantees the right to life and personal liberty <sup>92</sup>. In *Animal Welfare Board of India v. A. Nagaraja (2014)*, the Supreme Court explicitly extended this protection to animals, declaring that "*every species has a right to life and security, subject to the law of the land, which includes the right not to be treated with cruelty.*"<sup>93</sup> This landmark judgment makes caring for animals not just a moral duty, but a constitutional responsibility.

**Article 48A** requires the state to "protect and improve the environment

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<sup>92</sup> INDIA CONST. art. 21.

<sup>93</sup> Animal Welfare Bd. of India v. A. Nagaraja, (2014) 7 SCC 547 (India).

and safeguard the forests and wildlife of the country,"<sup>94</sup> creating a positive duty for government action rather than just preventing harm.

**Article 51A(g)**<sup>95</sup> makes it every citizen's fundamental duty to "have compassion for living creatures," which the Supreme Court in *Nagaraja* declared the "Magna Carta of animal rights in India."<sup>96</sup>

These provisions work together to create a legal environment where protecting street dogs becomes both a state responsibility and a citizen duty, backed by constitutional authority.

## **3.2 Primary Protection: The Prevention of Cruelty to Animals Act, 1960**

The Prevention of Cruelty to Animals Act, 1960, is India's primary law protecting animal welfare, including that of street dogs. It defines cruelty clearly and provides legal safeguards against common issues faced by strays.<sup>97</sup>

### **3.2.1 Section 2(a) – Definition of Animal**

The Act defines "animal" as "any living creature other than a human being," explicitly including street dogs under its scope.

### **3.2.2 Section 3 – Duties of Persons Having Charge of Animals**

This section requires anyone in charge of an animal to take reasonable

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<sup>94</sup> INDIA CONST. art. 48A.

<sup>95</sup> INDIA CONST. art. 51A(g).

<sup>96</sup> *Id.*

<sup>97</sup> Prevention of Cruelty to Animals Act, 1960, No. 59, Acts of Parliament, 1960 (India).

steps to ensure its well-being. Caretakers must provide proper food, shelter, and medical care, and avoid causing unnecessary pain, suffering, or cruelty, ensuring the animal is treated with compassion and responsibility.

### **3.2.3 Section 11(1) – Prohibition of Cruelty**

This is the core provision of the Act, which lists a comprehensive range of cruel acts. The following clauses are directly relevant to street dogs:

- **(a)** It is cruel to beat, kick, overload, overwork, or torture an animal in any way. No one should cause unnecessary pain or suffering to animals.
- **(b)** You cannot make animals work when they are too old, sick, injured, or weak, as it causes them more pain.
- **(h)** Every animal has the right to basic needs like enough food, clean water, and proper shelter. Not giving these is also cruelty.
- **(i)** It is wrong to abandon an animal without reason, especially in places where it might starve, die of thirst, or suffer.
- **(j)** A person must not let a diseased or disabled animal roam on the streets or leave it to die without care. Proper treatment should be given.
- **(l)** It is illegal to kill any animal, including stray dogs, using painful or cruel methods such as strychnine poisoning or any other inhumane technique.

### 3.2.4 Section 11(1) – Penalties

The penalties for violating Section 11(1) are specified at the end of the same subsection. These fines are minimal and have not been updated since the Act's enactment:

- **First offence:** A fine of not less than ₹10 but which may extend to ₹50.
- **Subsequent offence:** For a repeat offence within three years, the fine is not less than ₹25 but may extend to ₹100, or imprisonment for a term of up to three months, or both.

### 3.2.5 Section 4 and 9– The Animal Welfare Board of India

The **Animal Welfare Board of India (AWBI)** is a statutory body established under **Section 4** of the Prevention of Cruelty to Animals (PCA) Act, 1960. It serves as the government's central advisory body on animal welfare. Its functions are detailed in **Section 9** of the Act.

#### **Key Functions of the AWBI**

- The AWBI advises the government on animal welfare policies and proposes new rules. It also sets guidelines and grants recognition for animal welfare programs, including Animal Birth Control (ABC) initiatives for street dogs.
- It provides funding and technical assistance to Animal Welfare Organizations (AWOs), animal shelters, and rescue homes.
- The Board works to educate the public on the humane treatment of animals through campaigns and educational materials.

- The AWBI investigates cruelty complaints and collaborates with local authorities to ensure the PCA Act is properly enforced.

### **3.3 Regulatory Framework: Animal Birth Control Rules, 2023**

The Animal Birth Control Rules, 2023, issued under the Prevention of Cruelty to Animals Act, 1960, replaced the 2001 Rules. They provide a humane, science-based framework for managing street dog populations while protecting public health and animal welfare.<sup>98</sup>

- **Rule 3 – Project Recognition:**

Local authorities intending to implement Animal Birth Control (ABC) programs must obtain formal recognition from the Animal Welfare Board of India (AWBI). This ensures that all programs adhere to scientifically approved and humane standards.

- **Rule 7(3) – Return of Sterilized Dogs:**

After sterilization and vaccination, street dogs must be returned to their original territory. This aligns with the internationally accepted **Capture–Neuter–Vaccinate–Release (CNVR)** approach, which maintains the ecological balance and prevents territorial conflicts among dogs.

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<sup>98</sup> Animal Birth Control Rules, 2023, G.S.R. 193(E), Ministry of Fisheries, Animal Husbandry & Dairying (Mar. 10, 2023).

- **Rule 9 – Prohibition on Relocation and Killing:**

Relocation or euthanasia of street dogs is prohibited unless there is confirmed rabies or dangerous aggression, requiring veterinary certification and due process to prevent arbitrary actions.

- **Rule 10 – Infrastructure and Care:**

Local authorities must provide infrastructure such as kennels, a mobile operating theatre, and veterinary facilities to ensure humane treatment before and after sterilization.

- **Rule 15 – Humane Euthanasia:**

Euthanasia is permitted only for incurably ill or severely injured animals, as determined by qualified veterinarians, ensuring that suffering is minimized.

- **Rule 20 – Regulated Feeding:**

Community dog feeding should be organized through Resident Welfare Associations or local bodies at designated locations to maintain harmony with communities.

### **3.4 Animal Welfare Provisions in the Bharatiya Nyaya Sanhita (BNS)**

The BNS has introduced significant changes aimed at providing broader protection to animals and imposing harsher penalties on offenders.

### **3.4.1 Section 325 – Mischief by Killing or Maiming Animals**

This section applies to “any animal,” removing the old distinctions in IPC Sections 428 and 429. It criminalizes killing, poisoning, maiming, or harming any animal, punishable by up to five years’ imprisonment, a fine, or both—significantly stricter than before.<sup>99</sup>

### **3.4.2 Section 291 - Negligent conduct with respect to an animal**

This section makes it clear that anyone caring for an animal must take steps to prevent it from harming people. For street dogs, feeders and caretakers are responsible for their safety. Negligence, whether intentional or accidental, can result in six months’ imprisonment, a ₹5,000 fine, or both, encouraging responsible care and protecting public safety.<sup>100</sup>

## **4. THE 2025 DELHI STRAY DOG CASE: A CONSTITUTIONAL CRISIS IN ANIMAL WELFARE**

The year 2025 witnessed a crisis in Delhi that triggered a legal and constitutional storm in India. It was published in *The Times of India*: "City Hounded by Strays, Kids Pay Price." The public uproar soon turned into a landmark Supreme Court case, *Suo Moto Writ Petition*

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<sup>99</sup> Bharatiya Nyaya Sanhita, 2023, § 325, No. 45, Acts of Parliament, 2023 (India).

<sup>100</sup> Bharatiya Nyaya Sanhita, 2023, § 291, No. 45, Acts of Parliament, 2023 (India).

(Civil) No. 5 of 2025. It revealed a clash between public safety, kindness to animals, and the limits of court power. What followed was a dramatic story of overreach and correction, leaving behind important lessons for the future.<sup>101</sup>

#### **4.1 A City in Turmoil: The Genesis of the Crisis**

The Supreme Court did not act on a whim; it responded to a city in real crisis. Imagine this: Delhi recorded over 25,201 dog bites in 2024, about 69 bites each day. By January 2025, the number had risen to more than 100 daily reports, with 3,196 cases that month. Across India, over 37 lakh dog bites were reported in 2024.<sup>102</sup>The human suffering was reflected in stark numbers. Research in Delhi had shown that urban slum residents experienced dog bites at a rate of 30.1 per 1,000 people, nearly double the rural rate of 19.6 per 1,000.<sup>103</sup> For parents walking their children to school or workers returning home after dark, these were not just statistics; they represented a daily fear woven into city life.

The crisis was further worsened by a failing government system.

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<sup>101</sup> *Suo Motu Writ Petition (Civil) No. 5 of 2025*, Order (Aug. 11, 2025), ¶ 1, Supreme Court of India,

[https://api.sci.gov.in/supremecourt/2025/41706/41706\\_2025\\_8\\_31\\_63158\\_Judgement\\_11-Aug-2025.pdf](https://api.sci.gov.in/supremecourt/2025/41706/41706_2025_8_31_63158_Judgement_11-Aug-2025.pdf) (last visited Sept. 19, 2025).

<sup>102</sup> *Id.*

<sup>103</sup> S. Sharma et al., *Prevalence of Dog Bites in Rural and Urban Slums of Delhi: A Community-Based Study*, 6(2) *Annals of Medical & Health Sciences Research* 115 (2016), <https://pmc.ncbi.nlm.nih.gov/articles/PMC4866364/> (last visited Sept. 19, 2025).

Despite existing laws like the Prevention of Cruelty to Animals Act, 1960, and the Animal Birth Control (Dogs) Rules, 2023, Delhi's municipal authorities were ill-equipped to manage the problem. With only 20 Animal Birth Control centers for an estimated 8,00,000 to 10,00,000 street dogs, chronic underfunding led to six-month payment delays, and severe shortages of trained staff made effective action nearly impossible.

## **4.2 The First Strike: The August 11, 2025 Order**

On August 11, 2025, a two-judge bench comprising Justices J.B. Pardiwala and R. Mahadevan issued an order that shocked the nation. Their directive was blunt and absolute: all municipal bodies in Delhi-NCR were to remove all stray dogs from public spaces within eight weeks and house them permanently in shelters. The Court prioritized the right to life of citizens over concerns about stray dogs, placing Article 21 above the duty to show compassion for animals under Article 51A(g). Even more controversially, the Court directly contradicted existing law by prohibiting the feeding and release of captured dogs. The order was not just a policy change; it unilaterally suspended the established "catch-sterilize-vaccinate-return" protocol mandated by the Animal Birth Control (Dogs) Rules, 2023, raising serious questions about judicial authority.

Making matters worse, the bench dismissed applications from animal welfare organizations without a hearing, violating the core principle of

*audi alteram partem*—let the other side be heard. The order also went against scientific consensus; it contradicted the Supreme Court’s own precedent in *Animal Welfare Board of India v. A. Nagaraja & Ors.* (2014)<sup>104</sup>, which recognized a right to life for animals. Veterinarians and experts warned that mass removal would create territorial vacuums, drawing in more unsterilized dogs and increasing the risk of disease. Even the World Health Organization’s guidelines supported the very protocols the Court had just prohibited.

### **4.3 The Turn of the Tide and the Corrective Order**

The public and expert backlash was immediate and unified. Veterinary associations and hundreds of animal welfare organizations filed urgent review petitions, noting that mass detention was scientifically flawed and practically impossible. Over 500 volunteers offered to help the Municipal Corporation of Delhi, and officials admitted that they could not house 50,000 dogs, let alone the estimated 10 lakh on Delhi’s streets. The constitutional crisis reached its peak on **August 13, 2025**, when Chief Justice B.R. Gavai formed a new three-judge bench comprising Justices Vikram Nath, Sandeep Mehta, and N.V. Anjariato review the controversial August 11 order to permanently remove all stray dogs from the streets of Delhi-NCR. They engaged stakeholders, sought expert input, and commissioned reports on international best

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<sup>104</sup> *Id.*

practices.

On **August 22, 2025**, the bench issued a corrective order, restoring both legal clarity and compassionate governance.<sup>105</sup>

**4.3.1. Sterilization, Vaccination, and Release:** The Court clarified that the earlier ban on releasing dogs after sterilization and vaccination was too harsh and impractical due to limited shelter infrastructure. All stray dogs must be sterilized, dewormed, vaccinated against rabies, and returned to their original localities. Only dogs confirmed rabid or showing verified aggression by scientific assessment may be quarantined or housed.

**4.3.2. Designated Feeding Zones:** Municipalities, including the Municipal Corporation of Delhi (MCD), must set up feeding zones in every ward based on stray dog populations. Feeding outside these zones is prohibited, and violators will face penalties. Signage and helplines must be provided to prevent unregulated feeding and ensure public safety and hygiene.

**4.3.3. Shelter Management:** Shelters must be adequately staffed, medically equipped, monitored by CCTV, and free from overcrowding. Citizens may adopt stray dogs under protocols preventing their return to the streets. Individuals and NGOs approaching the court on the issue must deposit ₹25,000 and ₹2 lakh, respectively, to support shelter

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<sup>105</sup> Suo Moto Writ Petition (Civil) No. 5 of 2025, Supreme Court of India, Judgment dated Aug. 22, 2025, [https://api.sci.gov.in/supremecourt/2025/41706/41706\\_2025\\_3\\_1501\\_63567\\_Judgment\\_22-Aug-2025.pdf](https://api.sci.gov.in/supremecourt/2025/41706/41706_2025_3_1501_63567_Judgment_22-Aug-2025.pdf) (last visited Sept. 20, 2025).

infrastructure.

**4.3.4. Scientific Assessment of Aggression:** “Aggressive behavior” must be determined by veterinary experts to safeguard against arbitrary or biased confinement. The Court warned that obstruction of dog-catching efforts would result in prosecution and possible contempt of Court.

**4.3.5. Nationwide Policy and Case Consolidation:** Recognizing this as a nationwide issue, the Court extended jurisdiction to all States and Union Territories and consolidated pending cases from various High Courts to develop a uniform, humane, and scientific national policy.

## **4.4 A New Legal Precedent**

The 2025 Delhi Stray Dog Case became a critical moment in Indian legal history. It demonstrated the importance of procedural fairness and how natural justice must extend to non-human interests through their advocates. Most significantly, it had shown that court decisions on complex policy matters must be grounded in scientific evidence, not merely public pressure. The case established a new precedent for how the judiciary can engage with technical and ethical issues, creating a more robust framework for the future.

## **5. MULTIDIMENSIONAL CHALLENGES IN STREET DOG MANAGEMENT**

Every abandoned street dog reflects poor governance, low budgets, weak management, community tensions, and gaps in public health. Delhi's 2025 crisis has shown us how these issues block even good plans and why dog bites continue.

### **5.1 Financial Constraints in Urban Dog Management**

Central grants for ABC programs fell from ₹4.03 lakh in 2020–21 to almost nothing between 2021 and 2025. As a result, NGOs have had to shoulder the costs of sterilization and vaccination, often without steady government support. The MCD's veterinary budget is just 0.64% of its ₹17,002.66 crore total—far too little to sterilize Delhi's estimated one million street dogs. Moreover, municipal reimbursement rates of around ₹1,000 per procedure often fall short of actual costs, which can reach ₹2,600, leading to backlogs and compromised surgical quality.<sup>106</sup>

### **5.2 Weak Legal Enforcement and Veterinary Challenges**

The Prevention of Cruelty to Animals Act, 1960, prescribes maximum fines of ₹50 to ₹100 for animal cruelty, amounts that have remained

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<sup>106</sup> Quiet Crisis Unfolding in Dog Sterilization Centres, *The Hindu*, Sept. 2, 2025, <https://www.thehindu.com/news/cities/Delhi/quiet-crisis-unfolding-in-dog-sterilisation-centres/article69925842.ece> (last visited Sept. 20, 2025).

unchanged since 1960. These low penalties make cruelty an easy and cheap option for those seeking quick solutions. A person could poison multiple dogs and face lower financial consequences than a typical fine, creating perverse incentives that weaken legal protection. Low-bidding contractors sometimes skip proper anesthesia and aseptic technique to cut costs, resulting in post-operative complications and higher mortality.<sup>107</sup>

### **5.3 Inadequate Facilities and Shelter Capacity**

Only 20 ABC centers serve Delhi, with a combined capacity to hold or operate on up to 4,000 dogs at a time for surgery and recovery.<sup>108</sup> In August 2025, volunteers claimed the centers were overcrowded and unsanitary, though police reports disagreed. Constructing shelters for the city's entire dog population would cost an estimated ₹15,000 crore—nearly a third of the city's annual budget—making large-scale expansion unrealistic.<sup>109</sup>

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<sup>107</sup> Rakesh Shukla, *Analysis of the Delhi ABC (Animal Birth Control) Programme: Spending, Sterilisation Output, Facilities & Conditions, 2001–2025* (2025) (last visited Sept. 20, 2025).

<sup>108</sup> *Id.*

<sup>109</sup> Sakshi Kuchroo, “Rs 110 per dog, per day: MCD warns Delhi's stray dog relocation plan could cost Rs 11 crore a day,” *Financial Express* (Aug. 14, 2025), <https://www.financialexpress.com/india-news/rs-110-per-dog-per-day-mcd-warns-delhis-stray-dog-relocation-plan-could-cost-rs-11-crore-a-day/3946154/> (last visited Sept. 20, 2025).

## **5.4 Waste Management and Territorial Behavior**

Indian cities generate about 1,70,338 tons of solid waste daily, of which only 53.7% is processed.<sup>110</sup>Uncollected garbage provides abundant food for stray dogs, who then defend these “territories” aggressively. Slum areas near dumps report bite rates of 30.1 per 1,000 people, almost double rural rates.

## **5.5 Community Conflicts and Attitudes Towards Strays**

Residents caring for strays often clash with those who are worried about for their safety. Pet feeders see feeding as a moral duty; Resident Welfare Associations view it as an invitation to danger. These disputes escalate legal costs and delay coordinated action. Fear and stigma keep many bite victims, particularly children (30% –60% of reported rabies cases and deaths in India), from getting unrecognized and unreported<sup>111</sup>.

## **5.6 Understanding Why Street Dogs Bite**

Street dog attacks happen often because of a complex set of behaviors, not just aggression. Dogs become protective of their territory, food, and puppies, and fear from past trauma or poor socialization can make them

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<sup>110</sup> Waste generation in the country, Press Information Bureau (Feb. 8, 2024), <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=2003989> (last visited Sept. 20, 2025).

<sup>111</sup> World Health Organization, Rabies (Aug. 2025), <https://www.who.int/india/health-topics/rabies> (last visited Sept. 20, 2025).

more aggressive. Health problems like rabies can also increase the risk. Human actions such as running, sudden movements, carrying food, or approaching feeding areas often trigger bites. Conflicts worsen when dogs search for food in poorly managed waste. Understanding these reasons can help people avoid bites and reduce conflicts with street dogs.

## **6. THE WAY FORWARD - RECOMMENDATIONS AND LEGAL REFORMS**

The 2025 Delhi stray dog crisis showed how weak laws, poor funding, and a lack of planning make humane management difficult. Yet, successful stories from Bhutan, the Netherlands, and Darjeeling prove that lasting solutions are possible.

### **6.1 Amendment of PCA Act Penalty Structure**

The most urgent requirement is updating the Prevention of Cruelty to Animals Act. The penalties under Section 11, set at fines ranging from ₹10 to ₹100 in 1960, remain a grossly inadequate deterrent against cruelty. The proposed PCA Amendment Bill, 2022, which suggests fines of up to ₹75,000 and imprisonment of up to five years for aggravated cruelty, is a step in the right direction.

## 6.2 Bhutan's Revolutionary Model: A Blueprint for Success

Bhutan's transformation from a country struggling with street dog management to achieving 100% sterilization offers the world's most successful model for humane population control. The Kingdom's "Nationwide Accelerated Dog Population Management and Rabies Control Programme," launched in March 2022 following His Majesty the King's royal decree on July 30, 2021, achieved complete sterilization and vaccination of all free-roaming dogs in just 20 months<sup>112</sup>

The program scope was unprecedented: 61,680 dogs sterilized (including 56,251 street dogs and 5,429 owned dogs), 32,000 pet dogs microchipped, and 12,812 personnel deployed, including 9,036 De-sups (Guardians of Peace) volunteers. Operating from 217 clinics across the country, the program reached even the remotest border districts using the CSVWR protocol: catch, sterilize, vaccinate, withhold for 24-hour post-surgical care, and release.<sup>113</sup>

Bhutan's success rested on four critical pillars. First, the government shows strong commitment through royal support, a ₹29.5 crore budget

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<sup>112</sup> Bhutan achieves sterilisation of all the country's free-roaming dogs in under two years, WOAHA-Asia (Dec. 28, 2023), <https://rr-asia.woah.org/en/news/bhutan-achieves-sterilisation-of-all-the-countrys-free-roaming-dogs-in-under-two-years/> (last visited Sept. 20, 2025).

<sup>113</sup> *Id.*

increase, and clear deadlines <sup>114</sup> . Second, comprehensive community engagement involving trained volunteers, public education campaigns, and cultural sensitivity to Buddhist values of compassion <sup>115</sup> . Third, technical excellence through partnership with Humane Society International, which provided initial expertise before training local veterinarians in high-volume, high-quality spay/neuter techniques <sup>116</sup> . Fourth, systematic implementation across three phases: mass sterilization, targeted mopping campaigns, and final combing operations to reach elusive dogs. Bhutan eliminated dog-mediated rabies, reduced human-dog conflicts, and created a sustainable model where sterilized dogs naturally limit the entry of new unsterilized dogs. Post-programme monitoring shows vaccination rates consistently above 90%, highlighting long-term sustainability.

### **6.3 Learning from the Netherlands: Institutional Excellence**

The Netherlands' achievement as the world's first country with zero stray dogs offers valuable institutional lessons for India's reform agenda. The Dutch approach combined higher taxes on store-bought

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<sup>114</sup> *Id.*

<sup>115</sup> Vaishnavi Parashar, "How can India replicate Bhutan's strategy of achieving 100% street dog sterilisation?", *India Today* (Jan. 7, 2024), <https://www.indiatoday.in/information/story/how-can-india-replicate-bhutans-strategy-of-achieving-100-street-dog-sterilisation-2485691-2024-01-08> (last visited Sept. 20, 2025).

<sup>116</sup> *Id.*

dogs to promote shelter adoption, nationwide CNVR (Collect, Neuter, Vaccinate, Return) programs, and a specialized animal police force to investigate cruelty cases. This success was built over decades of institution-building, beginning with the establishment of the first animal protection agency in 1864 and gradually strengthening enforcement mechanisms.<sup>117</sup>

India can adapt these institutional innovations by establishing animal welfare police units within existing forces, creating tax incentives that favour rescue adoption over commercial breeding, and implementing comprehensive registration and microchipping systems. The Dutch model also shows that sustained political commitment across successive governments is key to achieving long-term success.

## **6.4 Darjeeling's Community-Driven Excellence**

The Darjeeling region, through organizations like the Darjeeling Goodwill Animal Shelter (DGAS), founded in 1993 by Australian activist Christine Townend, demonstrates how sustained community engagement can transform attitudes and achieve lasting results <sup>118</sup> . DGAS successfully eliminated strychnine poisoning of street dogs in

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<sup>117</sup> “Netherlands makes history as the first country to wipe out stray dogs,” Kathimerini (Mar. 29, 2024), <https://knews.kathimerini.com.cy/en/news/netherlands-makes-history-as-the-first-country-to-wipe-out-stray-dogs> (last visited Sept. 20, 2025).

<sup>118</sup> About Darjeeling Goodwill Animal Shelter Trust, DARJEELING GOODWILL ANIMAL SHELTER (Mar. 29, 2023), <https://goodwillanimalshelter.in>(last visited Sept. 20, 2025).

both Darjeeling and Kalimpong municipalities by 1998, replacing lethal control with comprehensive Animal Birth Control programs.<sup>119</sup>

The Darjeeling model emphasizes community education and partnership. Recent programs demonstrate this approach: in July 2025, DAS conducted five vaccination camps across challenging monsoon conditions, working with the Mobile Veterinary Unit in Bijanbari and local veterinary officers.<sup>120</sup> These follow-up camps are particularly significant—Dr. Shivani reported observing a "gradual shift in awareness among local dog owners," with no cases of pyometra or complications from human contraceptive injections that were common in previous years.<sup>121</sup>

The shelter's comprehensive approach includes training Rapid Response teams in safe dog handling, conducting ward-wise vaccination campaigns covering all 32 wards of Darjeeling with over 2,425 dogs vaccinated, and implementing community awareness programs marking World Rabies Day<sup>122</sup>. Expanding to areas like Kalimpong, Kurseong, and Mirik shows that community-driven models can be scaled up successfully.

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<sup>119</sup> *Id.*

<sup>120</sup> Darjeeling Animal Shelter Monthly Report, July 2025, Darjeeling Goodwill Animal Shelter (Aug. 2025), <https://goodwillanimalshelter.in/wp-content/uploads/2025/08/Darjeeling-Animal-Shelter-July-2025.pdf> (last visited Sept. 20, 2025).

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

Most significantly, DGAS has achieved sustainable behavioral change. Since 1998, both municipalities have maintained their commitment to humane management, demonstrating that community ownership creates lasting policy stability<sup>123</sup>. The shelter's work extends beyond street dogs to include cattle, goats, and chickens, reflecting holistic animal welfare that resonates with local communities.

## **6.5 Implementing Evidence-Based National Reforms**

Based on successful international models, India should implement a phased national strategy addressing the systemic failures exposed in Delhi's 2025 crisis. First, establish a state-level coordination committee model on Bhutan's whole-of-nation approach, involving municipal corporations, veterinary departments, animal welfare organizations, and community representatives. These committees should have statutory authority, dedicated budgets, and clear accountability mechanisms.

Second, dramatically increase funding for ABC programs. Delhi's allocation of just 0.64% of its ₹17,002.66 crore municipal budget to veterinary services is grossly inadequate for managing an estimated one million street dogs<sup>124</sup>. Bhutan's investment of ₹29.5 crore for a much smaller population provides a proportional benchmark—India would

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<sup>123</sup>*Id.*

<sup>124</sup> “Delhi Civic Body MCD Allots 0.64% of Rs 17,002.66 Crore Budget to Veterinary Services,” *NDTV* (Aug. 14, 2025), <https://www.ndtv.com/delhi-news/delhi-civic-body-mcd-allots-0-64-of-rs-17-002-66-crore-budget-to-veterinary-services-9081421> (last visited Sept. 20, 2025).

require approximately ₹300-400 crore annually for effective national coverage.

Third, mandate comprehensive training programmes for municipal veterinary staff. Bhutan trained over 35 veterinarians in high-volume spay/neuter techniques, while Darjeeling's success stems from skilled practitioners like Dr. Surabhi Sharma, who trained at Ontario Veterinary College and brings international expertise to local practice<sup>125</sup>. India should establish national training centres providing standardized certification in humane dog management.

Fourth, implement technology-driven monitoring systems. Bhutan's use of ear-notching for identification, combined with digital tracking of procedures and outcomes, enables evidence-based policy adjustments. Mobile applications can facilitate citizen reporting, coordinate feeding schedules, and track post-operative care protocols.

## **6.6 Community Engagement and Cultural Integration**

Successful street dog management requires community ownership, as demonstrated in both Bhutan and Darjeeling. India should launch comprehensive public education campaigns emphasizing the cultural and spiritual significance of compassion toward animals, drawing from Hindu, Buddhist, Sikh, and Jain traditions that revere animal welfare.

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<sup>125</sup> “New Vet for Darjeeling Animal Shelter,” Working for Animals (Feb. 11, 2020), <https://www.workingforanimals.org.au/a-new-vet-for-darjeeling-animal-shelter/> (last visited Sept. 20, 2025).

School curricula should include animal welfare education, fostering lifelong attitudes of respect and responsibility. Community feeding programmes, currently sources of conflict, should be reorganized through Resident Welfare Associations with designated feeding zones, scheduled timings, and trained volunteers. Darjeeling's success in transforming community attitudes—from acceptance of strychnine poisoning to active participation in vaccination drives—demonstrates the power of sustained education and engagement.

## **6.7 Specialized Judicial Mechanisms**

Establishment of specialized animal welfare courts or fast-track procedures for animal cruelty cases would address the current problem of delayed justice. Such mechanisms should include trained personnel familiar with animal welfare law and scientific evidence, ensuring that the *Audi alteram partem* principle is consistently applied in animal welfare cases.

## **6.8 Personal Testament: From Legal Principle to Living Compassion**

My journey with animal welfare began not in books, but in real life. Last December, a neighbor's street dog gave birth to five puppies. Out of compassion, my family brought one home, not realizing how much responsibility it would involve. During those cold winter days, we

bathed him twice to keep him clean. On the third warm shower, we unknowingly stressed his fragile body. The next day, he became weak, stopped eating, and his body grew cold. As first-time dog owners, we thought he would recover naturally, not understanding the seriousness of the situation. When his condition worsened, we rushed him to a veterinarian. After three days of treatment, he slowly regained strength. The veterinarian explained that while our intentions were good, proper care required more knowledge, including how to bathe him safely, what and how to feed, follow a vaccination schedule, and recognize early signs of illness, such as lethargy, loss of appetite, or changes in body temperature.

Sadly, the rest of the puppies could not survive the harsh December cold. Their loss showed us the hard reality of life for street animals. At the same time, our puppy's recovery revealed their incredible resilience. Despite his difficult start and our mistakes, he quickly adapted to our home. He learned our routines, bonded with every family member, and amazed us with his intelligence and protectiveness. His joyful tail-wagging, playful attempts to run away whenever I open the gate, and countless shared memories have now become a part of my day. This experience revealed the gap between animal welfare laws and reality. The Prevention of Cruelty to Animals Act, 1960, the Animal Birth Control Rules, 2001 (revised 2023), and constitutional provisions such as Articles 48A and 51A(g) only have meaning when individuals take responsibility. The puppies we lost represent countless others who

remain unprotected, while the one we saved shows what is possible when compassion is paired with knowledge and action.



*A photograph taken at the time of adoption, along with another from a few months later, illustrates his growth, now matching my brother's height. These moments reflect the bond he shares with our family and remind us that every being has a story worth protecting.*<sup>126</sup>

Today, he is more than a pet. He is family, a little brother who protects, forgives, and reminds us that love crosses the human-animal divide. My message is simple. Adopt street animals, but do it responsibly. Learn

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<sup>126</sup> Photographs captured by the author in Bagdogra, India, on Dec. 17, 2024, and June 5, 2025.

about their needs, seek veterinary care, and commit to the long term. True animal welfare begins when compassion grows into informed action at home.

## **7. CONCLUSION - GUARDIANS OF COMMUNITY AND NATION**

Delhi's street dogs are often overlooked, yet they have become an essential part of the community and, more surprisingly, an important asset to the nation's defense. The 2025 crisis highlighted the urgent need for humane and effective management of these animals, striking a balance between human safety and animal welfare. The Supreme Court's clear judgment reaffirmed that street dogs have the right to life guaranteed under Article 21 of our Constitution and must be treated humanely through scientific methods such as catch-sterilize-vaccinate-release (CNVR). This ruling corrected earlier mistakes that involved mass detention or culling, stressing the importance of proper veterinary assessment and community consultation before any action.

What is lesser-known, yet equally remarkable, is the vital role street dogs play in national security. The Indian Army has found an unlikely ally in these native 'Desi' dogs, who serve as sentinels along high-security borders, particularly the 224-km stretch of the Line of Control (LoC) with Pakistan. Without formal training, they naturally patrol the terrain and alert soldiers to suspicious activity, often detecting

infiltration attempts through their barking and defensive behavior. Their sharp territorial instincts and knowledge of the landscape have proven invaluable in areas like Nagrota and Gulmarg, sometimes outperforming technological sensors. Lt. General R.R. Nimbhorkar, former commander of the 16 Corps, has highlighted how soldiers are encouraged to feed and bond with these dogs, keeping them near critical surveillance points and strengthening border security.<sup>127</sup>

Major General Ajay Chandpuria, the General Officer Commanding of the Army's 19th Infantry Division, emphasizes that the bond between soldiers and stray dogs along the border is a common and valued sight. He highlights that these canines have consistently stood by the soldiers, offering companionship and alertness, even during challenging situations.<sup>128</sup>

The Indian Army's use of street dogs highlights a unique mix of tradition and innovation in border security. By combining the instincts of these indigenous dogs with their trained abilities, the Army effectively enhances protection along the borders. Their presence demonstrates that Indian Pariah Dogs can be loyal protectors and valuable assets to the nation.

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<sup>127</sup> Rahul Singh, "Yes, We Can-ine: How Strays Are Foiling Infiltration Bids Along LoC," *Hindustan Times* (Oct. 11, 2015), <https://www.hindustantimes.com/india/yes-we-can-ine-how-strays-are-foiling-infiltration-bid-along-loc/story-bQhs1R2in67bq74Z9gabk.html> (last visited Sept. 21, 2025).

<sup>128</sup> "Guardians Without Uniforms: How Stray Dogs Helped Foil Infiltration at the LoC," *PawPaa* (May 14, 2025), <https://blogs.pawpaa.com/guardians-without-uniforms-how-stray-dogs-helped-foil-infiltration-at-the-loc/> (last visited Sept. 21, 2025).

Also, International, and regional examples show clear paths toward sustainable progress. In Bhutan, a national dog sterilization and rabies control program backed by royal decree, steady government funding, and active community volunteers achieved nearly complete sterilization and vaccination in just 20 months, successfully eliminating dog-mediated rabies. Similarly, in Darjeeling, community-led initiatives led to genuine behavioral changes, ending street dog poisoning and encouraging mass vaccination campaigns with lasting impact. These stories demonstrate how political will, community involvement, science, and cultural understanding can come together to create humane and effective street dog management.

Personally, adopting a street dog and watching him grow from a fragile pup into a trusted family member has been a powerful experience. His upcoming participation in Kukur Tihar—a festival that honours dogs for their loyalty—reminds me that these animals deserve not just legal protection but also cultural recognition and love.

In conclusion, the 2025 Supreme Court judgment represents a crucial step toward protecting street dogs as valuable members of society and the nation's security framework. Improving veterinary infrastructure, increasing funding, and fostering a more compassionate public attitude are the necessary next steps. Our treatment of street dogs reflects the values we uphold as a society. If we properly recognize and protect these animals, they will continue to be loyal guardians of Delhi's streets and brave defenders of India's borders for generations to come.

# STRICT LIABILITY IN TORT: A NECESSARY EVIL?



-Anirban Bhadra<sup>129</sup>

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## ABSTRACT

*This article examines the tort law principle of strict responsibility, which posits that a defendant is accountable for damage even if they were not at fault. It refers to this concept as a "necessary evil." A defendant is accountable for damage under strict responsibility, regardless of whether they were at fault. It originated in the early days of common law but was primarily superseded by fault-based negligence. However, it returned in cases such as Rylands v. Fletcher and Greenman v. Yuba Power Products to address issues arising from*

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*modern business practices and technology. The doctrine is deemed "essential" for the purpose of achieving public policy objectives, including the facilitation of the legal process for victims, the prevention of detrimental activity, and the equitable distribution of losses. However, it is considered "evil" from a philosophical perspective due to its apparent contradiction with the fundamental moral principle of "no liability without fault. "In a high-tech society where the traditional negligence framework is not always effective, strict liability is a practical compromise that is essential to ensure that victims receive compensation, promote higher safety standards, and expedite the legal process. This is particularly true for new issues such as AI and self-driving cars. It achieves equilibrium between the pursuit of social justice and moral concerns.*

**KEYWORDS:** *Strict Liability, Victims, Necessary evil, Public Policy, Negligence.*

# 1. INTRODUCTION

Strict liability is a unique and often contested legal principle in tort law. Unlike the more common negligence standard, which holds a defendant legally responsible for an action only if they are found to be at fault or to have broken a duty, strict liability holds a defendant legally responsible for an action regardless of their intent or mental state.<sup>130</sup> It is basically defined as "liability without fault."<sup>131</sup> This article gives a full analysis of the doctrine, looking at its doctrinal roots, historical beginnings, and the different moral and public policy reasons it gives rise to. The primary tension examined in this discourse is the doctrine's efficacy and its advantages for public policy, including loss distribution and the prevention of hazardous conduct, contrasted with its significant philosophical criticisms, particularly the assertion that there should be "no liability without fault."<sup>132</sup> Historically, strict liability diminished during the Industrial Revolution but re-emerged as an essential mechanism to mitigate the systemic harms engendered by contemporary industrial and corporate practices. The analysis concludes that strict liability, though seemingly severe and ethically contentious by

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<sup>130</sup> LEGAL INFORMATION INSTITUTE, [https://www.law.cornell.edu/wex/strict\\_liability](https://www.law.cornell.edu/wex/strict_liability) (last visited Sept. 14, 2025).

<sup>131</sup> Neil Shouse, *Strict Liability vs. Negligence – What's the Difference?*, SHOUSE LAW, (Sept. 14, 2025), <https://www.shouselaw.com/ca/blog/strict-liability-vs-negligence/>.

<sup>132</sup> Richard A. Epstein, *Strict Liability*, FIVEABLE, (Sept. 14, 2025), <https://fiveable.me/united-states-law-and-legal-analysis/unit-5/strict-liability/study-guide/YYbjGoJLymuYv5je/>.

conventional criteria, is not an antiquated concept but a practical and essential instrument. It promotes a type of social justice by making sure that victims get paid and encouraging safety in a complicated, industrialized, and technologically advanced society where the old fault-based negligence model does not always work.

## **2. THE DOCTRINAL FOUNDATION: DEFINING STRICT LIABILITY IN TORT**

### **2.1 WHAT IS STRICT LIABILITY IN TORT? A COMPARISON OF DOCTRINES**

Under the strict liability standard, a defendant is responsible for an action even if they did not mean to do it or were in a bad mental state when they did it. This is a major change from the usual rules of tort law, which usually require proof of fault to hold someone liable. Unlike criminal law, where strict liability is mostly limited to minor offenses like certain possession crimes or statutory rape, the doctrine is a bigger and more important idea in tort law.<sup>133</sup>

The difference between strict liability and negligence is the most important part of modern tort law. To prove negligence, the plaintiff must show four things: that the defendant had a duty of care, that the

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<sup>133</sup> *Supra* Note 131 at 89.

defendant broke that duty, that the break caused the plaintiff's injuries, and that the plaintiff was hurt. In cases of negligence, the focus is on what the defendant did and whether they did it with "due care" or in an "unreasonably unsafe" way. On the other hand, strict liability does away with the need to show that someone broke their duty or didn't take proper care.<sup>134</sup> It focuses on the result, or whether a certain "harm manifested" because of what the defendant did. This change in focus, from the defendant's state of mind or actions to the harm itself and its direct connection to the defendant, is what makes a strict liability case "much easier to win" for a plaintiff.

## **2.2 THINGS THAT MAKE UP A STRICT LIABILITY CLAIM**

The main parts of a strict liability claim make it easier to understand because they focus on the link between a specific action and the harm that came from it. The plaintiff usually only must show that the defendant did something or had a product that hurt the plaintiff.<sup>135</sup>The most important parts are:

**2.2.1. Action/Activity:** The defendant must have participated in a particular activity or possessed a product considered inherently dangerous or sufficiently risky to justify the classification of strict

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<sup>134</sup> *Supra Note* 132 at 89.

<sup>135</sup> SAIDTORTS.LAWBOOKS.CALI.ORG, <https://saidtorts.lawbooks.cali.org/chapter/introduction-to-strict-liability/> (last visited Sept. 14, 2025).

liability.<sup>136</sup>

**2.2.2. Causation:** There must be a clear connection between what the defendant did or made and the harm that was done.<sup>137</sup> The plaintiff must show that the harm was a "direct result" of the activity that was dangerous in and of itself.<sup>138</sup>

**2.2.3. Harm:** The plaintiff must have experienced tangible harm or injury.<sup>139</sup>

## 2.3 FOUNDATIONAL TENSIONS

The intentional creation of strict liability, which removes the necessity to establish fault, constitutes both its paramount strength and the origin of its most significant philosophical discord. The doctrine is designed as a practical, utilitarian choice to give victims a faster and more certain way to get paid. But it does this by deliberately ignoring the usual moral requirement of blameworthiness, which is the basis for most other legal rules. This simplification of the process for the plaintiff creates a moral problem for the defendant, who could be held responsible even though they took all reasonable steps to protect themselves.

The "no liability without fault" argument is the direct moral opposite of the doctrine's simple way of doing things. This slogan, which was first

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<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> Justin Fisher, *What is strict liability tort in law? Definitions and examples*, CASEPEER.COM, (Sept. 14, 2025), <https://www.casepeer.com/blog/strict-liability-tort/>.

<sup>139</sup> *Id.*

used to sum up the moral opposition to strict liability, sums up the idea that it is unfair to hold someone responsible for harm when their actions were not blameworthy.<sup>140</sup> This tension between the doctrine's practical efficiency and its moral implications is the crux of the "necessary evil" question, shaping the entire discourse regarding its function in contemporary jurisprudence.

<b>FEATURE</b>	<b>STRICT LIABILITY</b>	<b>NEGLIGENCE</b>
<b>Elements of Proof</b>	Action/Activity, Causation, Harm	Duty of care, Breach of duty, Causation, Harm
<b>Focus</b>	On the outcome or the harm that occurred	On the defendant's actions and their use of "due care"
<b>Burden of Proof</b>	Simplified; plaintiff does not have to show that the defendant was at fault	Complex; plaintiff must show that the defendant broke a duty of care
<b>Underlying Rationale</b>	Public policy, efficiency, risk distribution	Moral principles, individual fault, blameworthiness

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<sup>140</sup> *Id.*

<b>Common Cases</b>	Abnormally dangerous activities, products liability, animal attacks	Car accidents, medical malpractice, slip and fall cases
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### **3. FROM HISTORICAL PRECEDENT TO CONTEMPORARY PRINCIPLE**

#### **3.1 THE ORIGINS OF THE COMMON LAW**

Tort law comes from English common law, which was used in colonial America. In the beginning, especially in an agricultural society, courts focused on strict liability for things like trespassing and nuisance, which often led to property damage or personal injury. This early legal model made defendants responsible for any harm they caused, even if they didn't mean to or were careless.<sup>141</sup>The historical origins of this doctrine are open to scholarly contention. Some scholars, including Oliver Wendell Holmes, Jr., contend that the foundation of tort liability has consistently been at fault. Others, on the other hand, say that strict liability was the original standard and that judges in the 19th century

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<sup>141</sup> Bautista Leroy, *The Evolution Of Tort Law In The United States*, BAUTISTALERROY.COM, (Sept. 14, 2025), <https://www.bautistaleroy.com/the-evolution-of-tort-law-in-the-united-states>.

made a conscious choice to switch to negligence.<sup>142</sup> Morton J. Horwitz's work, for instance, posits that this transition served as a mechanism to "establish immunities from legal liability and consequently to furnish significant subsidies for individuals engaged in economic development initiatives."

### **3.2 THE INDUSTRIAL REVOLUTION AND THE RISE OF NEGLIGENCE**

The 18th and 19th centuries saw huge changes in society and the economy. The new problems of this time caused more workplace injuries, product defects, and transportation accidents, which traditional, strict liability rules did not work for.<sup>143</sup> This time saw a big change in the law, with negligence becoming the most important idea in tort law. The 1850 Massachusetts Supreme Judicial Court case was a significant turning point in this change.

*Brown v. Kendall* ruled that strict liability should not apply when harm is done by accident. The case set the stage for modern negligence law by stressing the importance of being careful. This moral stance was famously encapsulated by the phrase "no liability without fault," which was employed to contest a system of strict liability on ethical

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<sup>142</sup> Robert J. Kaczorowski, *The Common-Law Background of Nineteenth-Century Tort Law*, 51 OHIO ST. L.J. 1127 (1990).

<sup>143</sup> *Id.*

grounds.<sup>144</sup>

### **3.3 THE RETURN OF STRICT LIABILITY: THE RULE IN *RYLANDS V. FLETCHER***

The return of strict liability as a separate legal principle is best shown by the English House of Lords ruled in *Rylands v. Fletcher*<sup>145</sup> The case set a precedent that a person who brings something onto their land and keeps it there is "likely to do mischief if it is fully responsible for any damage that happens. This choice got support for bringing the law that governs private reservoirs should be the same as the law that governs public ones, for which there were already laws in place. The case established a novel legal domain for "abnormally dangerous activities" and is different from nuisance because it does not need to happen all the time.

This historical evolution illustrates that the advancement of tort law is not a linear process; evolution from an "immoral" benchmark to a "moral" one. Instead, it goes in circles and adaptable response to the needs of society and the state of the economy. The move away from strict liability in the 19th century was a deliberate policy choice, driven by a desire to "promote new industry."<sup>146</sup> But as industrial work got more dangerous, and the negligence doctrine, which was based on each

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<sup>144</sup> *Id.*

<sup>145</sup> *Rylands v. Fletcher*, (1868) L.R. 3 H.L. 330.

<sup>146</sup> *Id.*

person's "reasonable care," didn't work to deal with new, big, and non-negligent harms, strict liability came back to fill the void.

For example, *Rylands v. Fletcher* was a practical way to solve a problem that was not easy to fix by the fault-based standard. This pattern shows that strict liability is a functional tool that comes back when the old negligence model is not enough, especially when high-risk activities cause harm to the system.

## **4. THE CASE FOR STRICT LIABILITY: REASONS OF PUBLIC POLICY**

### **4.1 LIABILITY FOR LOSSES AND BUSINESSES**

One of the most convincing reasons for strict liability from a public policy point of view is the economic principle of spreading loss. This doctrine makes sure that the cost of a loss is spread out over a larger group instead of just one person, who is usually not to blame.<sup>147</sup> The theory of Enterprise liability is an important part of this idea. It asserts that businesses, especially those that make money from risky businesses, should pay for the kinds of accidents they cause.<sup>148</sup> This mechanism constitutes a form of "internalizing externalities," which means that a defendant has to pay for all of the social costs of their

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<sup>147</sup> FIVEABLE.ME, <https://library.fiveable.me/key-terms/torts/loss-spreading> (last visited Sept. 14, 2025).

<sup>148</sup> Gregory C. Keating, *The Theory of Enterprise Liability and Common Law Strict Liability*, 54 *Vand. L. Rev.* 1285 (2001).

actions instead of passing them on to others.<sup>149</sup> The costs of an injury are thus "spread out" among the members of the business" (for example, by raising insurance premiums slightly) increased product prices, or spread out among shareholders, and should not be "concentrated on the person who was hurt."<sup>150</sup>

## 4.2 PREVENTING DANGEROUS BEHAVIOR

Strict liability encourages actors to put more money into safety and risk reduction than the "reasonable care" standard for negligence would say that this is what you should do because a defendant is responsible for everything injury caused by a product that is faulty or an activity that is too dangerous, no matter who is to blame.<sup>151</sup> They have a financial reason to take "every possible precaution" to avoid accidents

This gives a strong financial reason to put public safety first, which leads to things like extensive safety testing, strict quality control during production, and the creation of safer options than harmful goods.<sup>152</sup>

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<sup>149</sup> Gregory C. Keating, *Strict Liability Wrongs*, BEPRESS LEGAL REPOSITORY, <https://law.bepress.com/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1260&context=usclwps-lss> (last visited Sept. 14, 2025).

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

### **4.3 LOWERED TRANSACTION COSTS AND AN EASIER BURDEN OF PROOF**

For plaintiffs, a major practical benefit of strict liability is that it makes it easier to prove their case proof, which makes it easier and cheaper to get paid. By taking away the doctrine lowers "transaction costs" by not requiring proof of fault or facts. This makes things easier and faster court decisions, which help both the plaintiff and the legal system.

These arguments for strict liability are mostly based on utility and economics. They are not worried about moral blame or how a person acted in a specific situation, but about social welfare, economic efficiency, and the best way to spread risk. This viewpoint intentionally puts the issue of whether a defendant should be held responsible second to the question of which legal rule will benefit society the most. Strict liability means a way to change people's behavior and spread costs in a way that benefits the most people.

<b>JUSTIFICATION</b>	<b>UNDERLYING PRINCIPLE</b>	<b>EXPLANATION</b>
<b>Loss-Spreading</b>	Fairness and Economic Efficiency	Distributes the financial burden of accidents across a large group rather than concentrating it on a single victim. Enterprises that

		profit from an activity are best positioned to absorb and distribute these costs
<b>Deterrence</b>	Optimal Precaution and Safety	Incentivizes actors to take every possible precaution to avoid harm, as they are liable regardless of fault. This promotes a higher level of safety than a "reasonable care" standard would require
<b>Simplified Process</b>	Judicial Efficiency and Victim Compensation	Reduces the burden on the plaintiff to prove fault, which simplifies the legal process and lowers transaction costs.

## **5. THE CASE AGAINST STRICT LIABILITY: ETHICAL AND PHILOSOPHICAL OBJECTIONS**

### **5.1 THE ARGUMENT OF "NO LIABILITY WITHOUT FAULT"**

The main moral argument against strict liability is that there should be "no liability without fault. "Critics argue that it is inherently unfair and unjust to detain a defendant responsible for damage when they did everything, they could to avoid it and were not at fault. From this viewpoint, the law should not simply inquire, "Did the defendant commit the physical act which hurt the plaintiff?" but should also ask, "Was the act wrong?" This viewpoint characterizes strict liability as an "immoral standard of acting at one's peril" and has resulted in some scholars have called it an "orphan among moral theorists." <sup>153</sup> Some people say that tort law is meant to be a law of "wrongs" and that strict liability, which means "paying as you go," is a "foreigner in its midst" because it doesn't include the moral aspect of doing something wrong.

## **5.2 DISCOURAGEMENT OF INNOVATION AND ECONOMIC STAGNATION**

A significant practical critique is that strict liability can "chill innovation" and impede economic growth.<sup>154</sup>This argument says that the doctrine stops companies from doing things that are good for society but risky by making them "potentially existentially liable for

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<sup>153</sup> *Id.*

<sup>154</sup> Alberto Galasso & Hong Luo, *When does Product Liability Risk Chill Innovation? Evidence from Medical Implants*, Nat'l Bureau of Econ. Research, Working Paper No. 25068, 2 (2018), [https://www.nber.org/system/files/working\\_papers/w25068/w25068.pdf](https://www.nber.org/system/files/working_papers/w25068/w25068.pdf) (last visited Sept. 14, 2025).

latent, unknowable risks" that come with new technology.<sup>155</sup> The worry is that the high cost and uncertainty of liability could stop businesses from making new products or starting new projects.<sup>156</sup> However, empirical evidence on this point is mixed; some studies suggest that while strict liability can discourage innovation in some cases, it can also incentivize the development of "risk-mitigating technologies and safer product designs" in others. The final effect will depend on the industry, the type of technology, and the state of the economy.<sup>157</sup>

### **5.3 PHILOSOPHICAL AND RHETORICAL SUBTLETIES**

The academic discourse has transcended a mere pro/con dialogue, with certain scholars contending that the distinction between strict liability and fault-based liability constitutes a "monumental mistake" and a "false dichotomy." They say that "objective and thus quite demanding standards of conduct" can be used to define many torts, such as negligence.<sup>158</sup> A study on juror perception also found that using "negligence language" might be better for plaintiffs than using "strict liability language." This is because the first one uses emotionally charged ideas of fairness and fault, which shows that how the debate is

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<sup>155</sup> James A. Henderson Jr., *Tort vs. technology: Accommodating Disruptive Innovation*, 48 ARIZ. ST. L.J. 1143 (2016).

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

framed is an important part of how it works in the real world.<sup>159</sup>

The criticisms of strict liability, whether from moral theorists or advocates of innovation, are not disparate objections; they are interconnected by a shared philosophical foundation. The phrase "no liability without fault" is a deontological, rule-based argument that looks at whether an action is right or wrong on its own, without considering what happens as a result.<sup>160</sup> The assertion that strict liability stifles innovation represents a causal, consequentialist critique, positing that, notwithstanding the doctrine's benevolent intentions, its outcomes are detrimental to society.<sup>161</sup> These positions, when considered collectively, constitute a unified philosophical opposition to the utilitarian underpinnings of strict liability, thereby solidifying the "evil" aspect of the central inquiry.

<b>CRITICISM</b>	<b>CORE PRINCIPLE</b>	<b>EXPLANATION</b>
<b>"No Liability Without Fault"</b>	Moral and Ethical Justice	Argues that it is unfair to hold a party liable for harm when they have taken all reasonable precautions and were not morally or legally to

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<sup>159</sup> Richard L. Cupp Jr. & Danielle Polage, *The Rhetoric of Strict Products Liability Versus Negligence: An Empirical Analysis*, 77 N.Y.U. L. Rev. 874(2002) (last visited Sept. 17, 2025).

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

		blame. The focus should be on the blameworthiness of the act, not just the outcome
<b>Disincentive to Innovation</b>	Economic Growth and Social Progress	Contends that the risk of "existential liability" for latent or unknowable risks associated with new technologies can discourage firms from undertaking beneficial but inherently dangerous activities
<b>False Dichotomy</b>	Legal and Philosophical Cohesion	Suggests that the debate is mis framed, as many torts contain elements of both strictness (objective standards) and fault (wrongdoing). Strict liability for abnormally dangerous activities is a narrow exception

## **6. STRICT LIABILITY IN ACTION: EXAMPLES AND USES**

### **6.1 TRADITIONAL STRICT LIABILITY**

Strict liability has been used in many traditional situations where "ultrahazardous" activities or items that are dangerous by nature are involved. In these cases, liability is not determined by a case-by-case assessment of reasonableness, but rather by the inherent characteristics of the activity.<sup>162</sup> Historically, blasting, pile driving, storing large amounts of flammable liquids in a city, and fumigation with cyanide gas have all been thought of as "abnormally dangerous" and therefore subject to strict liability. Also, owning wild animals like lions and tigers, and in some places, dogs that have been aggressive in the past, also makes you strictly liable. The owner is responsible for any damage or injury that happens if the animal escapes or attacks, no matter what steps they took to keep it from happening.

### **6.2 THE CRUCIBLE OF PRODUCT RESPONSIBILITY**

Product liability is probably the most important and complicated part of strict liability today. The development of this field shows how important doctrine is in an economy that makes a lot of things. In the past, courts used the "privity" doctrine, which said that a manufacturer was only responsible for damages to people they had a contract

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<sup>162</sup> *Id.*

with.<sup>163</sup>This was not enough as mass production and marketing grew, and the modern form of strict product liability was established in the middle of the 20th century. The important case of *Greenman v. Yuba Power Products, Inc.*<sup>164</sup> established that manufacturers could be held strictly liable for injuries caused by a defective product, regardless of negligence. The plaintiff generally only needs to prove that the product was defective and that the defect caused their injuries.

The **Ford Pinto case** (*Grimshaw v. Ford*)<sup>165</sup> is a crucial example that illustrates the public policy rationale for strict liability. Internal company documents revealed that Ford knew the Pinto's fuel tank was susceptible to rupture and fire in low-speed rear-end collisions. However, the company's internal cost-benefit analysis calculated that the costs of potential lawsuits and settlements were cheaper than the cost of a design fix, a calculation that resulted in numerous injuries and deaths. The jury's substantial punitive damages award in this case, even after a reduction on appeal, sent a clear message to the automotive industry that ignoring safety for the sake of profit would come at a severe financial peril.

Similarly, the **McDonald's "Hot Coffee" case** (*Liebeck v. McDonald's*) is often cited by critics of tort law as an example of a

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<sup>163</sup> *Id.*

<sup>164</sup> *Greenman v. Yuba Power Products, Inc.*, 59 Cal. 2d 57, 377 P.2d 897, 27 Cal. Rptr. 697 (Cal. 1963).

<sup>165</sup> *Grimshaw v. Ford*, 119 Cal. App. 3d 757, 174 Cal. Rptr. 348 (1981).

frivolous lawsuit, but a closer examination reveals it to be a powerful illustration of strict product liability. Stella Liebeck suffered third-degree burns that required skin grafting, and her attorneys demonstrated that McDonald's coffee was served at a dangerously high temperature (180-190°F), which could cause third-degree burns in a matter of seconds. The company also had a history of prior complaints about its dangerously hot coffee. The jury found the product to be "defective" due to its temperature and awarded substantial damages.<sup>166</sup>

These case studies show a clear trend: strict liability works best and is used most often when big, well-funded companies (like Ford and McDonald's or chemical plants) are doing things that put the public at risk. These organizations, driven by a purely rational internal cost-benefit analysis, might determine that it is more lucrative to externalize the costs of accidents onto individual victims instead of investing in preventative safety measures. Strict liability is a legal way to fix this kind of market failure. The doctrine gives these businesses a strong financial reason to change their behavior and put public safety first by making them pay for all their actions.

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<sup>166</sup> Liebeck v. McDonald's Restaurants, 1995 WL 360309 (Bernalillo Cnty. Dist. Ct. 1994).

## **7. THE FUTURE OF STRICT LIABILITY: DEALING WITH NEW TECHNOLOGIES**

### **7.1 THE DIFFICULTY OF AI AND AUTONOMOUS SYSTEMS**

The quick growth of self-driving cars (AVs) and artificial intelligence (AI) is a new and big problem for current liability systems. As control moves from the human driver to the machine, the traditional negligence model, which depends on blaming a person, becomes less useful.<sup>167</sup> The causal chain of "human negligence leading to harm" is interrupted, which makes it hard to figure out who is to blame when an accident happens. Should the owner of the AV be responsible? The maker? The person who made the software? The strict liability framework offers a plausible, albeit contentious, solution by attributing responsibility for the product's behavior to the manufacturer or developer, irrespective of the ability to demonstrate a specific defect.<sup>168</sup>

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<sup>167</sup> Andreas Ortolani, *Strict Liability for AI and other Emerging Technologies*, RESEARCHGATE.NET, (last visited Sept. 14, 2025), [https://www.researchgate.net/publication/347850815\\_Strict\\_Liability\\_for\\_AI\\_and\\_other\\_Emerging\\_Technologies](https://www.researchgate.net/publication/347850815_Strict_Liability_for_AI_and_other_Emerging_Technologies).

<sup>168</sup> N.C. J.L. & TECH. BLOG, <https://journals.law.unc.edu/ncjolt/blogs/who-bears-the-blame-when-self-driving-cars-cause-an-accident/> (last visited Sept. 14, 2025).

## 7.2 THE SUGGESTED STRICT LIABILITY FRAMEWORKS

Legal and political groups are working hard to solve these problems, and many of the solutions being suggested involve strict liability. The EU is leading the way in this change, with several legislative efforts aimed at establishing a liability framework for new technologies.

- **The Revised Product Liability Directive (Revised PLD):** This directive changes the definition of "product" to include AI systems and software. It also expands the definition of a "defect" to include a product's "ability to continue to learn or acquire new features after it has been placed on the market," making manufacturers responsible for defects that happen after the sale because the system keeps learning.<sup>169</sup>
- **The Proposed AI Liability Directive (AILD):** This directive, which is being looked at, is meant to help people who are making fault-based claims by making it easier for the plaintiff to prove their case by using rebuttable presumptions of fault and causality.<sup>170</sup>
- The European Parliament (EP) has come up with a strict liability proposal that would create a separate framework for "high-risk" AI systems. This proposal would make it clear that the plaintiff does

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<sup>169</sup>ORTONROSEFULBRIGHT.COM, <https://www.nortonrosefulbright.com/en/knowledge/publications/7052eff6/artificial-intelligence-and-liability> (last visited Sept. 14, 2025).

<sup>170</sup> *Id.*

not have to prove fault. Instead, the provider or deployer of the high-risk AI system would be solely responsible for any damages.<sup>171</sup>

The current legal discourse regarding AI and autonomous systems serves as a contemporary reflection of the 19th-century Industrial Revolution. Negligence was made to protect new businesses from the harshness of strict liability. Today, policymakers are trying to find a way to balance the need to encourage technological progress with the need to fairly compensate people who are hurt by new and unpredictable harms. The old legal system is becoming less useful, leaving a "legal vacuum," and strict liability is once again being seen as the best way to fill that gap. This debate is a repeat of the main issue: is it fair to hold a company fully responsible for damage it could not have predicted (the innovation argument), or is it necessary for public safety and victim compensation to do so (the loss-spreading argument)?<sup>172</sup>

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<sup>171</sup> Anna Sophia Oberschelp de Meneses, Louise Freeman, Dan Cooper & Matsumoto Ryoko, *European Parliament Study Recommends Strict Liability Regime for High-Risk AI Systems*, CONVIGTON(last visited Sept. 14, 2025), <https://www.insideprivacy.com/liability/european-parliament-study-recommends-strict-liability-regime-for-high-risk-ai-systems/>.

<sup>172</sup> *Id.* at 170.

<b>TECHNOLOGY</b>	<b>LEGAL CHALLENGE</b>	<b>PROPOSED STRICT LIABILITY SOLUTION</b>
<b>Autonomous Vehicles (AVs)</b>	Traditional negligence model is obsolete as human fault is removed from the causal chain	Hold manufacturers liable for their product's behavior, regardless of a provable design or manufacturing defect
<b>High-Risk AI Systems</b>	AI's ability to self-learn creates post-sale defects that are difficult to anticipate or prove	Expand the definition of "product" and "defect" to cover software and its post-sale learning. Create a dedicated strict liability framework to eliminate the need to prove fault
<b>Toxic Torts</b>	Proving a direct causal link between a specific substance and a plaintiff's long-term illness is extremely difficult	Apply strict liability to "abnormally dangerous" activities like manufacturing and storing toxic chemicals, thereby easing the plaintiff's burden of proof

## **8. CONCLUSION: FINDING A BALANCE BETWEEN THE "NECESSARY" AND THE "EVIL"**

A thorough study of strict liability shows that it is a doctrine that is always in conflict, both hated and necessary. The moral argument against it, summed up by the phrase "no liability without fault," is very strong and fits with an ethical ideal of justice based on personal responsibility. From this point of view, strict liability is an "evil" because it gives up this ideal in favor of a more practical form of social justice, making a defendant responsible even if they acted with perfect care and foresight.

But strict liability is not just an ethical compromise; it is also a social and economic need. It fills a big hole that the negligence doctrine leaves behind. This doctrine is often not good enough to deal with the complicated and systemic harms that big businesses and new technologies cause. The case studies on product liability and environmental law show that strict liability is a strong way to fix problems in the market. It makes businesses consider all the social costs of what they do, which encourages them to spend money on the best safety measures instead of passing risks on to the public.

So, the only logical conclusion is that strict liability in tort is a necessary evil. It is "evil" because it goes against a moral ideal, but it is

"necessary" because it makes sure that three important things happen in a modern, complicated society:

1. **Guaranteed Compensation:** It gives victims of systemic risks a simple and reliable way to get paid, instead of having to pay for the whole accident caused by a big business.
2. **Best Safety Incentives:** It gives companies a strong financial reason to go beyond the "reasonable care" standard when it comes to safety, which protects the public more.
3. **Expedited Justice:** It makes the legal process easier in cases where proving fault is impossible from a technical or scientific point of view. This lowers transaction costs and makes the legal system work better.

In the end, strict liability is not a substitute for negligence; rather, it is an essential adjunct. It is a doctrine reserved for special circumstances where the balance of public policy, economic reality, and fairness necessitates a departure from the fault-based standard, proving its enduring and vital role in modern jurisprudence.



# **SHORT ARTICLE**



# EVOLUTION TO REFORM: A STUDY ON RECENT LABOUR LAW AMENDMENTS



-Piyush Mani Tripathi<sup>173</sup>

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## ABSTRACT

*This article primarily focused on recent amendments in Labour Laws in India, understanding the journey workers' rights from historical exploitation to the present era it explore the evolution of labour rights through the influence of Communist ideology and the subsequent introduction of various labour legislation during the British era, this article seeks to understand the core reason behind the amendments to*

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*existing labour laws including the presence of various labour laws and outdated provisions, the main focus of this work is on the four major labour codes introduced by the government of India which is named as the code of wage 2019 , the code of social security 2020, the occupational safety health and working condition code 2020 and the industrial relation code 2020. its analysis brought by these codes statutory provision and government data for a comprehensive understanding additionally this article separately examines the measures taken by his code to promote women empowerment and the challenges in their implementation in different States/UT. This paper concludes with the author's opinion on the impact effectiveness of these reforms. In short, this article tries to highlight the Significance of consolidating numerous outdated labour legislation into four comprehensive labour codes. And try to provide critical insights to legal professionals, Policymakers, academicians, and Practitioners in assessing the effectiveness of Indian labour law reforms.*

**KEYWORDS:** *Amendment, labour laws, Code, wage, Employee.*

# 1. INTRODUCTION

If you find out the trace of exploitation of workers and servants has existed since time immemorial, and it is difficult to identify the exact point of its origin. However, during the 18<sup>th</sup> and 19<sup>th</sup> centuries, when rapid industrialization resulted in the construction of various enterprises and factories throughout Europe, the problem of labour exploitation came into lam light.<sup>174</sup> Worker exploitation peaked with the expansion of industry. Workers were compelled to work inhumanely, frequently for long hours for low pay, with little consideration for their welfare, safety, or health. Profit was given precedence above workers' rights and welfare by employers, which ultimately led to a growing wealth disparity. While the working class became even poorer, the wealthiest got richer.

During this period, Karl Marx, born in Germany in 1818, introduced a new ideology known as Communism, which opposed the capitalist system and its inherent exploitation of labour. In 1848, Karl Marx authored the Communist Manifesto was published in London.<sup>175</sup> And His ideas, collectively referred to as Marxist theory, emphasized class struggle and inspired the working class across the world to resist exploitation and try to establish a classless society. This Marxist theory

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<sup>174</sup> Industrial Revolution, Encyclopedia

Britannica, <https://www.britannica.com/event/Industrial-Revolution>, (last visited Sept. 22, 2025).

<sup>175</sup> Karl Marx & Friedrich Engels, Manifesto of the Communist Party (1848).

acted as a Catalyst for labour activism and spread rapidly across Europe and eventually influenced movements and revocations in various parts of the world, including colonial India.

In 19<sup>th</sup> century India, under British rule, exploitation of workers was particularly unreasonable and inhuman. Farmers, labourers, and industrial workers were treated almost like slaves. The Zamindari system placed landless farmers under the control of landlords, and a around half of portion of agricultural produce goes to the British government in the name of revenue. Industrial workers also faced harsh working conditions in factories and plantations. These exploitative practices led to widespread discontent and several revolts at different levels of society.

To regulate employer-employee relationship, the British enacted certain labour laws in colonial India. But, major portion of these laws primarily served and protect the economic and Political interests of the Britisher government and industrialists, focusing on ensuring a steady supply of cheap labour rather than protecting workers' rights. For instance, laws such as the Factories Act of 1881 were more concerned with regulating production than improving the welfare of Indian workers.<sup>176</sup>

After independence in 1947, India gradually developed a comprehensive framework of labour legislation aimed to protect workers from exploitation and ensuring the welfare, and safety, rights

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<sup>176</sup> A.D. Jadhav, A Historical Study of the Factory Acts of 1881 and 1891 in India (2016).

of workers in various sectors. These laws sought to correct historical injustices and bring the principles of justice, equality, and dignity into the industrial relations system.

Despite having multiple laws, even after 79 years of independence, around 50 crores of workers from both the organized and unorganized sectors are still deprived of their basic wages and fair working conditions. This arises the need for a proper amendment of these laws.

## **2. REASONS FOR AMENDMENT**

### **2.1 NUMEROUS LABOUR LAWS**

In India, we have multiple labour laws enacted in the pre-independence and post-independence era by both Central and State Governments. Talking about the main streamline labour laws, there are 29 existing Central labour laws such as the Industrial Disputes Act, Factories Act, Maternity Benefit Act and so on. The existence of multiple laws makes their proper implementation difficult and confusing.

Addressing this problem, and considering the recommendations of the Second National Commission on Labour, report 2002, which also advised the Union Government to codify multiple labour laws, rule, and regulations into four or five labour codes, the Union Government decided to consolidate the existing 29 Central labour laws, Rules and Regulations into four labour codes, namely:

1. Code on Wages, 2019 – (consolidating 4 labour laws related to wages.)
2. Code on Social Security, 2020 – (consolidating 9 labour laws.)
3. Occupational Safety, Health and Working Conditions Code, 2020 – (consolidating 13 labour laws concerning the health and safety of workers.)
4. Industrial Relations Code, 2020 – (consolidating 3 labour laws.)

## **2.2 OUTDATED PROVISIONS**

Most of the existing labour laws were made up either in the colonial era or more than around 50 years ago, which makes them laws ineffective to deal with the current situation. Over the years, we have seen significant changes in the industrial and economic growth of our country.

For example, in many organizations today, the working hours exceed 10 to 12 hours per day, whereas the Factories Act, 1948 states that no factory worker should be made to work more than 10 hours a day.<sup>177</sup>

However, this law is only applicable to factory workers, while people working in other sectors continue to be exploited by employers.

Similarly, the punishment provisions under many labour laws are also outdated. For instance, under Section 26 of the Industrial Disputes Act, 1947, the penalty for an illegal strike is imprisonment for one month or

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<sup>177</sup> The Factories Act, 1948, §§ 51–59, No. 63, Acts of Parliament, 1948 (India).

a fine of only ₹50. In the case of employers, the penalty for an illegal lockout is imprisonment for one month or a fine of only ₹1,000. These provisions clearly show the urgent need for change and modernization of labour laws.<sup>178</sup>

### **3. MODIFICATIONS MADE IN THE NEW AMENDMENT OF LABOUR LAWS**

There are various changes introduced by the Government in the four Labour Codes to address the present issues, which are as follows:

#### **3.1 WAGE CODE, 2019<sup>179</sup>**

- This Code amalgamates four labour laws concerning wages and provides the right to minimum wages for everyone, irrespective of the organised and even unorganised sector also.
- The Code guarantees minimum wages to 50 crores of workers from both organised and unorganised sectors.
- It makes it compulsory to review minimum wages in every 5 years.
- It ensures the timely payment of wages to all workers.

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<sup>178</sup> The Industrial Disputes Act, 1947, § 26, No. 14, Acts of Parliament, 1947 (India).

<sup>179</sup> Code on Wages, No. 29, Acts of Parliament, 2019 (India).

- As per the new Wage Code, minimum wages are to be determined based on criteria such as workers skill level and geographical area.
- The ceiling for wage payment has also been increased from ₹18,000 to ₹24,000.<sup>180</sup>

## **3.2 SOCIAL SECURITY CODE, 2020<sup>181</sup>**

The Central Government consolidated nine labour laws into the Social Security Code to ensure the social security of workers in terms of insurance, pension, gratuity, maternity benefits, etc.

Under this Code, the benefit of free treatment is made available to workers of all sectors, including unorganised sector workers, through ESIC hospitals and dispensaries.

All institutions engaged in hazardous activities are required to be registered with the ESIC.

The Code also focuses on the creation of a national database of unorganised sector workers through a registration portal.<sup>182</sup>

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<sup>180</sup> Ministry of Labour and Employment, New Labour Codes for New India, available at: [https://labour.gov.in/sites/default/files/labour\\_code\\_eng.pdf](https://labour.gov.in/sites/default/files/labour_code_eng.pdf) (last visited Aug. 20, 2025).

<sup>181</sup> Code on Social Security, No. 36, Acts of Parliament, 2020 (India).

<sup>182</sup> *Id.*

### **3.3 OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020<sup>183</sup>**

By amalgamating the 13 existing labour laws, the Government codified the Occupational Safety, Health and Working Conditions Code, 2020 to secure the interests of workers in various sectors such as factories, mines, plantations, and motor transport sector, etc., with respect to their safety, health, and working conditions.

Talking about provisions of this code then this code made:

#### **3.3.1 SIGNIFICANT PROVISIONS FOR INTER-STATE MIGRANT WORKERS SUCH AS:**

- Firstly, focusing on the economic condition of interstate migrant workers this code required employers to pay annual travelling allowance to inter-state migrant workers for there to and from journey to their hometown or native place.
- This Code mandate Employers to provide appointment letters to all employees or workers.
- And one of the major steps was taken under the “One Nation, One Ration Card” scheme, where government ensures that migrant workers are entitled to ration facilities in the state where they are employed, while their family members can also avail ration in their native state.

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<sup>183</sup> Occupational Safety, Health and Working Conditions Code, No. 37, Acts of Parliament, 2020 (India).

### **3.3.2 SIGNIFICANT STEPS FOR WOMEN**

#### **EMPOWERMENT:**

- The Code makes special provisions for the welfare of women workers by allowing them to work in all types of establishments.
- Women are permitted to work night shifts with their consent, and employers are made liable to ensure their safety.
- Regarding maternity benefits, the Maternity Benefit (Amendment) Act, 2017 increased maternity leave from 12 weeks to 26 weeks.<sup>184</sup>

### **3.4 INDUSTRIAL RELATIONS CODE, 2020<sup>185</sup>**

By amalgamating three labour laws, the Government introduced the Industrial Relations Code, 2020 to ensure harmony and good relations between employer and employee, workman and workman, and employer and workman.

If some reason workers loss job, a worker will get benefits under the Atal BeemitVyakti Kalyan Yojana.

Under this scheme, workers of the organised sector who lose their jobs are entitled to financial support from the government.

This Code also seeks to ensure faster justice to workers through labour tribunals.

In case of retrenchment, a worker is entitled to receive 15 days' wages

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<sup>184</sup> *Id.*

<sup>185</sup> Industrial Relations Code, No. 35, Acts of Parliament, 2020 (India).

to support skill development and learning of new skills.<sup>186</sup>

## **4. ENFORCEMENT OF THE FOUR NEW LABOUR CODES**

As we know, labour is a subject under the Concurrent List of the Constitution of India, it means that both the Central as well as the State Governments is entitled to make laws on it. In order to take the public review, discusses and make know about the new laws, the Central Government published the draft rules in different States/UTs Before implementing the new labour codes,

Talking about publishing the draft of these codes, almost around 32 States and Union Territories have been published draft rules in their Gazette. However, there are few States and Union Territories, such as West Bengal and Lakshadweep, have not yet published the draft rules. Only few states and UTs have released draft regulations under specific Code; for example, Delhi has only published the draft regulations under the wage code 2019, leaving the remaining codes unpublished. This demonstrates unequivocally how differently the various States and UTs apply this regulation not all the provisions are being followed, even in the States that have released the draft regulations.

In my opinion, most of the State Governments are hesitant in implementing these codes due to the strong opposition from

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<sup>186</sup> *Id.*

industrialists and businessmen, as economic power plays a major role in current politics.

## **5. CONCLUSION**

Overall the consolidation of 29 existing Central laws in four comprehensive Code by considering the Recommendation of second national Commission of labour report 2002 the central government play a significant role for the financial empowerment and Welfare of the worker from both the organised and unorganised sector these amendment in Labour Law address the significant issues like multiplicity of law outdated provision lack of financial and security and inhuman working condition high were there effective implementation is still the major challenges due to uneven adoption by various state and union territories.



# **BLOGS**



# “AI TOOLS!” A BIG THREAT TO HUMAN LIFE



*-Jiya sah<sup>187</sup>*

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## 1. INTRODUCTION

AI (Artificial intelligence) is being made to use it as a magical tool for humans to enhance their ability and to correct human's existing capabilities in a better manner, people can utilize AI tools in several works such as Data analysis, language translation, content generation etc. Although AI tools have brought more advancements in the country but it lacks the broad creativity, emotional intelligence, and adaptability of human mind and Isn't it surprising for us to know that AI tools have

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started taking place of humans mind so quickly , Nowadays in the world it became trend of using AI Tools specifically ChatGPT by students who are totally relied on it for every works they have been assigned in the schools and colleges and because of it they have stopped using their analytical thinking skills, even employers are sometime relied on ChatGPT and AI tools . ChatGPT is becoming a great threat to the human mind as it is slowly taking the space of the human mind. People have become dependent on AI tools and chatbots. We can see that students' minds have become dull and slowly they are losing their brain power as they have become totally dependent on AI tools like ChatGPT.

AI tools are bringing more complexity in the real world as many of our youths are getting mis influenced by AI generated things and rather focusing on reality humans have become more delusional and fallacious. Such tools cause many distractions in society and in youth lives. We all say youths are the future of nations but due to these new tools youth's minds are not stable and easily getting distracted. The most concerned topic is that students had stopped using their brains for day to day works like making notes , assignments , projects , they are totally dependent on chatbot , it is not like that AI tools had generated for misusing purpose it has many advantages and can help us in many things which are sometime impossible for human to do but overusing of everything creates many disadvantages and bad effect in many ways.

## **2. ARTIFICIAL INTELLIGENCE LEADS TO GLOBAL CATASTROPHE & HUMAN EXTINCTION**

### **2.1 STUDENTS DEPENDENCY ON AI TOOLS**

Nowadays almost 90% students in the schools and colleges have become dependent on AI tools for every single works that have been provided to them by the teachers and professors which is causing very bad effect on their mind and thinking abilities of the students are fading day by day it is creating a big issue for the present generation as their critical thinking skills are being ruined, results of this might be extremely dangerous for present generation kids whose brains are at developing stage now. As we all know our brain function in such a manner that if for a longer period of time we will stop using our analytical thinking than it may causes certain issues like cognitive decline, reduced thinking skills, memory problem and slower thought process not only this but it can cause several issues such as brain fog, mental fatigue trouble with multitasking etc. Overusing AI is reducing the thinking power of the students and their skills of creative thinking are fading day by day.

### **2.2 MISINFLUENCED YOUTHS**

Youths of our nations are getting mis influenced by AI tools , it has

become trend of posting AI generated mis influenced video by some of the false account holders that are there in social media platforms like on Instagram , Facebook, YouTube and on several other social media platforms and because of this wrong information got spread all over internet that creates bad effect on youths mindsets , sometimes it has been seen that AI gives harmful health advices which are generally not recommended by doctors. AI tools have become the means of distractions for the present generation as they all have become delusional and instead of focusing on real world they are lost in their imagery AI generated world , rather focusing on themselves they are mostly relied on false generated pictures, videos and what not, yes it can be understandable sometimes that it gives us some joy but overusing of everything may be dangerous for human. In present days Gemini is acting as a substitute to ChatGPT and it is seen as a most dangerous app or tool till date because of its potential of converting anything according to human wish, perhaps becoming the advantage for evil minded people who can use it in criminal activities.

## **2.3 SECURITY & PRIVACY RISKS**

People are using AI as an entertainment source and for their day-to-day work unaware of the fact that it can harm our privacy and security over all the important documents, videos and photographs and it can be used as a blackmailing material by the cybercriminals. According to The Hindu law report of 2024 over 73% of females faces online violence

and are affected by cybercriminals activities of misusing their photos videos by converting their photos and videos into nudes 'pictures by using AI tools as a result several women in the fear of defamation and character assassination do Suicide, AI sometimes kills life of innocent people and their family's reputation in the society.

In present time it has become trend of using Gemini which is more dangerous , peoples unconsciously uploading their pictures on Gemini for following some of the trends which are spreading on internet but are unconscious about what they might face in future as the reports says that Gemini is not a trustable app and it can affect our privacy and security which could lead to occurrence of a more harmful and deteriorating situations.

## **2.4 COUNTRIES FUTURE IN DANGER**

If the situation will not be controlled than AI may become the great threat for the countries future as well as human life itself , yes we agree that there are many advantages of AI tools but we cannot disagree with the fact that today's world rather focusing on positive things mostly got attracted towards negative side of apps and it can create a devastating effect in future which is beyond our imagination. Reports says that AI is taking place of humans in many economic fields that is reducing employment for human labour causing starving deaths of poor and less educated peoples those who does not know how to cope up with AI tools and they cannot able to use it for their benefit or income

generation so they are being slowly displaced from their jobs creating rise of unemployment in the country.

## **2.5 OVERUSING OF AI (ARTIFICIALINTELLIGENCE) MAY BE DANGEROUS**

Immense use of everything might be vicious , for instance individuals who feel lonely have started sharing their personal information with Meta AI instead of sharing their thoughts with their close ones and their family members , peoples have become distant from their known ones and Meta AI is badly affecting human relationships as many of youths are taking relationships advice from Meta AI , Here the question arises that how could a machine guide us for our emotional and humanly feeling it is very clear that AI is a computerized mechanism which will only give practical solutions to every problem but it cannot be applied on real world as human need to work both emotionally and practically in each situations only practicality over emotions can't work in real world the balance of both is needed and hence it is proved that AI always cannot be right and cannot give best solution to every humanly created issues and cannot guide on human relationships , AI's guidance can sometimes be wrong and it might misguide us so it is our duty to check which data we should consume or which we cannot but the reality is people cannot make difference between Meta AI and

individuals advice and this is where we are lacking, slowly people are forgetting socializing skills which might create problems in future for them , because of Meta AI peoples are slowly ignoring the need of humans relationships , students are totally relied on AI tools causing devastating effects on their mind specially on the young developing mind , these were the major issues that the world is facing due to AI (Artificial intelligence) and it perhaps becoming the big threat to human life and hence it is in danger as well. If this will be the situation then that day is not far when we will be slaves of AI and machines and they will not be ours.

## **2.6 LOSS OF HUMAN CONTROL ON AI (ARTIFICIAL INTELLIGENCE)**

There are many issues that are occurring due to AI system in the world such as students over dependency on AI, occurrence of security and privacy risks of individuals private details, suicides due to AI tools, rise of cyber criminals and these situations are giving call to global catastrophe and human extinction. We may face several irreversible issues in the future which include job loss, deep fakes, biased algorithms, privacy violations, weapons automation, and social manipulation. The issue is more dangerous than we are thinking. AI systems have become more intelligent than humans which could lead to loss of human control on AI and it will bring deteriorating conditions in

future not only on one country but in the whole world as weapons automation and social manipulation can become the key factor for global catastrophe and occurrence of devastating situations like war in the countries and war brings more devastating effects at global levels. Loss of lives, dissolution of several countries infrastructure and situation got even worse during the war period when peoples start to eat each other just for their survivals , there has been cases before in human history that people killing each other just to satisfy their hunger and just to save their life because of scarcity of food and other necessary items which are important for humans survival , today's small issues can bring biggest threat to human existence.

### **3. MEASURES FOR CONTROLLING THE SITUATION**

We all know that AI might be dangerous for us but there are several measures through which we can manage the situation, it can be handled by controlling our own mind , focusing on tight security while using such tools like AI (Artificial intelligence) and other apps, we should not blindly trust on any upcoming apps and keep proper privacy & security check on it and government should impose some strict laws against cybercriminals so that the chances of such crimes might decrease in future. Most importantly we should not forget that AI is made as a servant for human's benefit as a supportive tool for enhancing our

existing skills in a more efficient way and not as the master of humans for controlling their mind. Apps are made for the development of human lifestyle as a servant of us and not to rule the mind of us. We should be aware and mindful of this and instead of totally depending on computerized mechanisms in every situation should use our own miraculous brain which is more generous and powerful at the same time.

In conclusion humans should know their ability, should not forget how miraculous and wonderful the human mind can be as many great achievers have set the example for the upcoming generation, scholars like Albert Einstein, Chanakya, Swami Vivekananda and the list go on, they all had set the best example in world history. Youth should not doubt on their abilities and should not relied on any app for humanly possible works it is not like that we should stop using apps and AI tools but it can be used as medium of self-growth instead of self-destruction and most importantly be aware of whatever we are posting on internet and keep check on every app or tools we are using. We should take some decisions consciously so that we will not regret in future, in this article I have tried to state some of the possibility of misshaping that may arise in the future in order to control the situation we have to bring certain changes so that we as a human will not regret later for the possibility of devastating situations that may occur in the future.