



## Research Article

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## Breaking Stereotypes: Men's Challenges in Achieving Neutrality in Alternative Dispute Resolution for Domestic Issues

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**Abstract:** In many countries, the conventional adjudication system often encounters significant obstacles, including court backlogs, escalating costs, and limited access to justice. As a result, Alternative Dispute Resolution (ADR) is increasingly gaining prominence as a practical substitute across various sectors. Resolving disputes through ADR is a common phenomenon, particularly in family matters. However, complexities often arise due to gender-related issues. Stereotypes and biases can influence the fairness of decisions, and a typical gender bias favoring women in the ADR process frequently leads to outcomes that do not reflect the actual scenario. Sometimes typical gender biasness in favour of women in ADR process often leads to so called decision that doesn't show the actual scenario and unfairly favour women, especially in family issues like domestic violence, dowry, custody of the child and maintenance there exist a preconceived notion that the men are the criminals and women are the victims. Additionally, assumption of male dominance and social expectations often results into unfair and unequal decision.

This paper examines the gender-biased disadvantages faced by men in ADR processes involving women and aims to propose gender-neutral and mutually agreeable solutions. It emphasizes the importance of ensuring fairness and justice for all parties, regardless of gender.

**Keywords:** ADR, men and women, social norms, stereotypes, gender neutrality

### 1.1 Introduction

In daily life disagreement among or between people are common, which often turned as dispute. In domestic life, especially in family matter men and women dispute is forever and ever a common notion. At the same settlement of domestic issues within family or through alternative dispute resolution through mediation is popular. Resolving such kinds of dispute has been always spotlight on protection of woman and their empowerment. While such attention is important and crucial due their social, economical situation in patriarchy society, however, it often overlooks a sensitive demographic inadvertently. The primary idea of ADR must be to achieve a fair and mutually agreed solution and beneficial for all the parties involved (Stipanowich, 2004) (Shamir, 2016), but invisibly the process become less equitable and disadvantageous for men with a preconceived notion that men are the offender as the led the patriarchy (Büttner, 2020) (Fontes, 2007). There may be various factor liable for it such as traditional gender biasness, preconceived social and cultural assumption as to many things. These types

of stereotypes may leave a man feeling unheard, underrepresented or judged unfairly. In most of the domestic issues men often grapple with the dual burden of proving his innocence and the demonstration of emotional capabilities.

While a huge number of scholars has argued women's right, women's perspective in ADR process, this study will explore the invisible challenges facing by men in ADR. It argues to dismantle the social stereotypes of 'men vs. women' from the notion of 'us vs. them', rather in order to achieve a gender neutral, fair and equitable outcome for all the parties irrespective of gender. While dispute can be resolve in judicial and non-judicial mechanism, this study investigating men's understanding behind the door and argues to open a door for gender neutral resolution through ADR.

### 2.1 Dispute and its Resolution Alternatively: Gender Biasness

The term "Dispute" covers a wide and vast aspect that cannot be limited into words or types, rather it has to be

understood contextually and only the pattern can be identified. Dispute is a disagreement or argument over something. ('Dispute Definition & Meaning | Britannica Dictionary', n.d.) In *Mavrommatis Palestine Concessions (Greece v. Great Britain)*, in the Permanent Court of International Justice, dispute was described as a disagreement on a point of law or fact, a conflict of interest or legal views between two persons. ('Mavrommatis Palestine Concessions (Greece v. Great Britain): International Case Law, Court Opinions & Decisions: Justia', n.d.) The usual rule to solve a dispute is to take the help of formal adjudication system where the Court system is overcrowded with the burden of numerous pending cases, scarcity of adjudicators and overcomplicated procedure (Tahura, 2022). Differing from that traditional method, ADR is a less formal, cost effective and faster process where the parties to a dispute communicate to each other and come to a mutually beneficial solution for all the parties involved targets to settle disagreements through a mutually cooperative and non-adversarial approach (Stipanowich, 2004) (Egbunike-Umegbolu, 2024). ADR, either in form of mediation, arbitration, negotiation or conciliation, is only if there is any agreed dispute. We can identify a

various kind of dispute, such as domestic issues, service matters commercial or corporate, moveable or immovable property, environmental consumers protection etc. Though gender is relevant to every dispute in all kinds, gender biasness is a phenomenon in domestic affairs in terms of relation between men and women.

Biasness based on gender identity, a discriminated treatment or preconceived assumption about someone based on his/her gender. As per the Legal information Institute, Cornell Law School, when a person receives different treatment for his/her gender, it falls within the ambit of gender bias. ('gender bias | Wex | US Law | LII / Legal Information Institute', n.d.) Based on so called identity, a person may face its consequence both directly or indirectly in any aspects. He/she may be deprived of something or may face a different attitude indirectly. As example a man may get preference for a labour-based job on the other side a woman may get preference for a care-giving job. It is a preconceived notion of societal norms that women are care giver, a wide number of men despite interest and skill has been declined based on gender. When we talk about gender biasness, the typical assumption comes that a man is always privileged and woman is deprived. But in wider term men and woman both may face discrimination on the basis of gender.

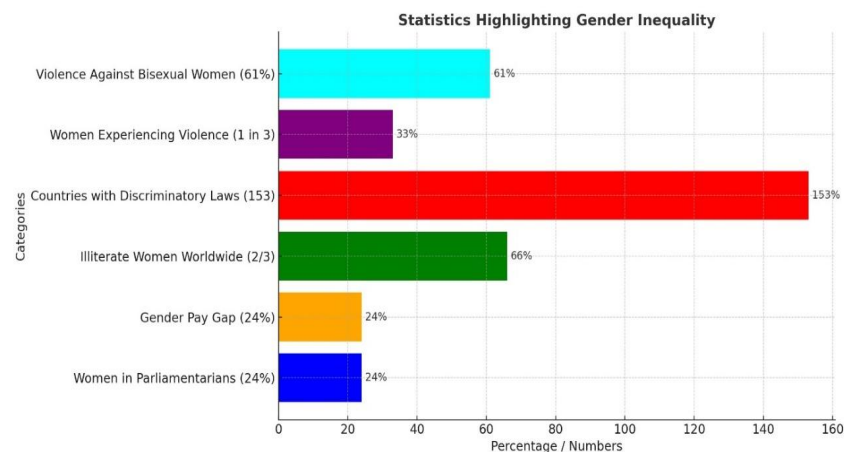


Figure 1.

Above chart shows some information's where women become the victim of discrimination. Again, there are also some sectors where the women get preference and the men face gender bias. ('Flight attendant demographics in the United States – Career Explorer', n.d.; 'The Influence of Women in HR | DPG CIPD', n.d.; 'Understanding the Gender Composition and Experience of Ready-Made Garment (RMG) Workers in Bangladesh', 2020; Kopya, 2022)

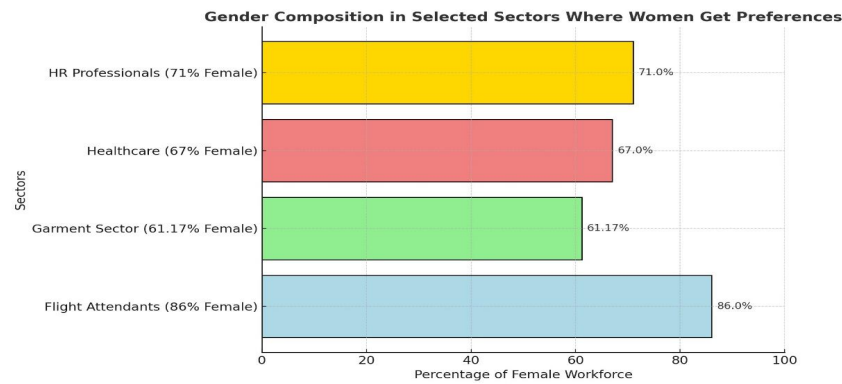


Figure 2

Figure 2 shows instances where women are given priority while men face discrimination. For example, in the human resources sector, 71% of preferences are for females. In the healthcare sector, 67% of female applicants receive preference. Similarly, in the garments sector, 61.17% of preferences go to females, and for flight attendants, 86% of positions favor female applicants. Other sectors, such as fashion design and home care, also exhibit similar trends.

### 3. The Roots Behind the Gender Stereotypes:

The primary factor responsible for gender bias is cultural and social norms (Lori Heise, 2019). (Heise et al., 2019) In a male dominated society, it is always assumed and practiced that the men should be one to take responsibility and the women should play the caring one (Doucet, 2000) (Neal, 2007) (Archer, 1994) (Miller, 1990) (Calasanti & King, 2007) Then comes the defects in our socialization system. In society gender biasness, as in descriptive gender stereotypes usually designating what women and men are like and as in prescriptive gender stereotypes designating what women and men should be like (M. E. Heilman, 2012) From a very early stage of life, we get used to with stereotypical gender role, as example when a child is born, we generally assume that the father will provide financial support and the mother will take care of the child. When a child is hungry, he runs to the mother not the father. When a child is sick the general assumption comes that the mother should be one to take care of the child.

Then comes the power imbalance, historically the women held less power than the man and naturally the men are expected to be the one to lead. Adding petrol to the fire, our media, social system, economic factor, lack of awareness and proper education takes the gender bias to another high note. It is not obvious that always a woman becomes the victim of such gender bias, a man can also face the reverse wrath of gender bias. As example, if a man wants to stay jobless and to take care of his family the society never accept that gladly. If a man wants to be a chef, cabin crew or a

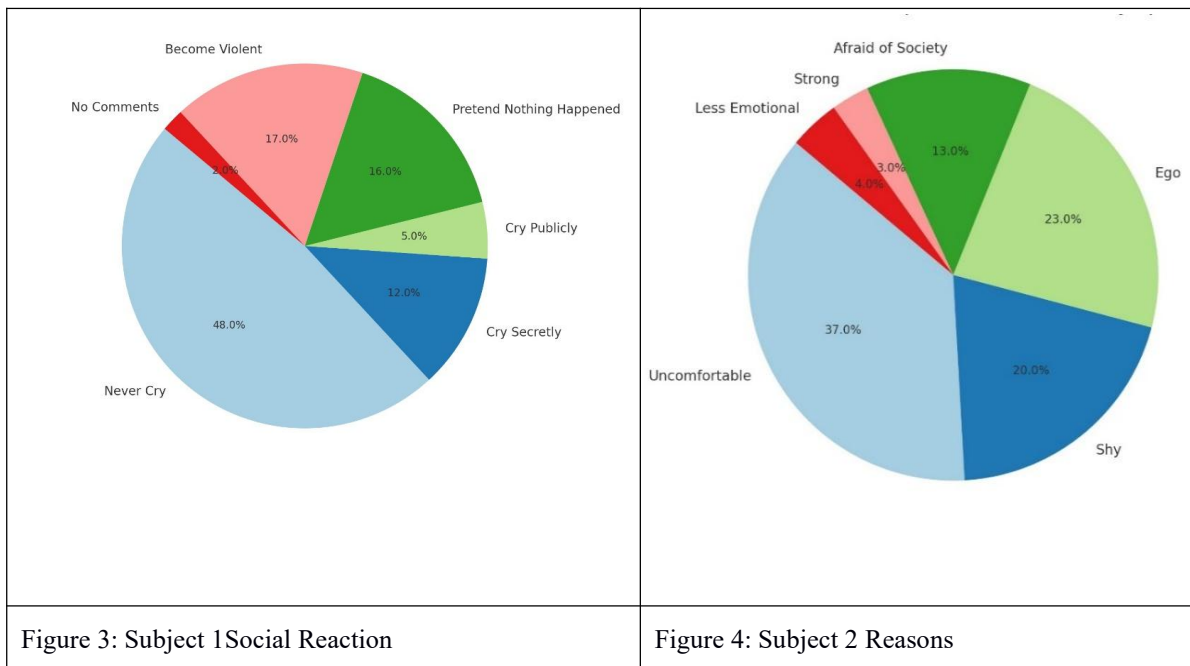
fashion designer, the journey is not as smooth as it could be for a woman. Arguably, it is well settled that gender bias is not limited only in men or women, they both can be the victim or reason depending on the context.

### 4. Challenges faced by men in ADR

Men face significant challenges in ADR due to societal stereotypes and biases. Emotional suppression, driven by the expectation that men remain stoic, often prevents them from effectively presenting their grievances. Deeply ingrained notions of male assertiveness and aggression can lead to unfair judgments, as legitimate defences are misconstrued as hostility. Additionally, men's perspectives are frequently underrepresented or dismissed, further tilting the balance against them. The stigma surrounding masculinity and the fear of reputational damage also discourage men from fully participating in ADR, perpetuating systemic inequalities.

#### 4.1 The Quick Sand of Emotions

It is agreed that women are subjected to deprivation in patriarchy society, therefore is an oblivious need to understand men's perspective for prevention of violence against women. In resolving dispute through ADR, the first drawback a man faces in dispute resolution is the less expressiveness of emotional status. Not only in ADR, the cycle starts with the childhood and continues throughout the whole life in various stages. A boy child is taught not to cry when he gets hurt saying men never cry. ('Why Men Hide Their Emotions? | Blog | TalktoAngel', n.d.) Let alone the society, even his family and close relations make him feel that expressing his true emotions will show him as puny before the society. It is not that a man is not emotional, rather they fear to expose their true emotion for such toxic social expectations. Statistics shows that half of the men, almost 50% doesn't express their true emotions because they think it will present them as vulnerable. ('Study reveals 50% of men fear expressing emotions, viewing it as a sign of weakness | Express.co.uk', n.d.) To investigate the men's perspective and this paper has consulted 100 male students from a university were asked what do they do when they are extremely upset for something.



In the above Figure 3 represents reaction and Figure 4 represents the reasons behind the When they were asked for the reasons. 48% they never cry, 12 % cry secretly, 5% cried publicly, 16% pretend nothing happen, 17% become violent, 2% never thought about it. Reasons behind the figure, 37% shared that they are comfortable to cry or to express their emotion, 20% they are shy to cry, 23% as they believe men never cry, 13% afraid so societal reputation, 3% strong mentality, 4% less emotional they don't cry in any issues.

Generally, women being opposite to this they expect more emotional investment in a relationship. But men being noob in this some the emotional expectation and inexpressiveness results into domestic strife. In an ongoing ADR session, be it negotiation, mediation conciliation or any other form, the sand quick of emotional expectation and mystery of inexpressiveness keeps battling. Sometimes the expectation of a woman is simple and the man also have the same set of emotional expectations but he cannot communicate it properly (Blazina & Watkins, 2000) As example suppose there is an ADR ongoing for divorce, the woman has some expectation from his husband to live together, the man doesn't want to be alone and want to live together, but he doesn't express his desire so that he is not presented as weak or puny. This imbalance between men's lack of emotional representation and women's sensitive nature, always results into a loss and unseen suffering for men in ADR.

#### 4.2 Social Constructs of Male Assertiveness and Aggression

Whenever any dispute arises between a man and women, the prima facie assumption comes that the man is the aggressive one and the woman is the sufferer. (John Stuart Mill, 2001) Be it for the cultural norms or social expectations, the typical thinking is that man is

aggressive, dominating and less compromising. They are expected to be tough, self-sufficient, stoic, ready to fight, risk-takers, demonstrably heterosexual, socially and physically dominant, and in pursuit of status and power. (B. Heilman, Barker, & Harrison, n.d.) Sometimes their stereotype veils the actual scenario and sometime man intentionally pretends to be so to match up with the social expectations. Here comes the biggest disadvantage for man in ADR, suppose there is a mediation process going on between husband and wife. If the wife claims that she has been tortured by his husband, it will be believed and accepted in a sympathetic way. But if the husband claims that he is the victim of domestic violence, instead of a sympathetic understanding he will be trolled for getting tortured by his wife. But nowadays men becoming victim of domestic abuse is quite well known. A man can be tortured physically, mentally, emotionally, sexually and in many ways. (Machado, Hines, & Douglas, 2020) (Machado, Hines, & Douglas, 2020) As per the report of U.S. Centres for disease and prevention (CDC), at any stage of his life a man can be a victim of abuse in various way. ('Intimate Partner Violence, Sexual Violence, and Stalking Among Men | Intimate Partner Violence Prevention | CDC', n.d.)

This is not necessary that a man has to be brutally tortured to be a victim of domestic abuse, rather it may be a simple hart by slap, kick, bite, punch. Furthermore, it may be done by humiliations, control or in sarcastic ways. When this type of abuse happens with a man, it becomes very difficult for him to make realise others his actual scenario. Last year in October, 2024 a viral incident was reported in BBC news where a man was abused by his ex in some unique ways. ('Male domestic abuse victim stopped from using bathroom and toilet', n.d.) Alongside, if regular physical abuse, he was restrained from using toilet, shaving, taking shower. He was controlled by her ex and restrained from communicating with his family and friends. The victim spoke up to help save other victims,

but in most of the ADR like process it becomes awkward for a man to communicate such things and even if they want to, they cannot in fear of social trauma. ('Male domestic abuse victim stopped from using bathroom and toilet', n.d.)

In a report presented at the seventh session of Vietnam's National Assembly, the Minister of Labour, Invalids, and Social Affairs, Dao Ngoc Dung, stated that nearly 3,200 individuals experienced domestic violence that year. Among the victims, 2,600 were women, while 565 were men. ('More men fall victim to domestic violence in Vietnam', n.d.) He also stated that every year the number of cases for domestic abuse is lowering but compared to that the number of male abuse case is getting higher each year. ('More men fall victim to domestic violence in Vietnam', n.d.)

#### 4.3 Defects in Representation of Men's Perspective:

In most of the ADR incident for domestic issues, the process starts with a preconceived assumption of male liabilities. In fact, the prima facie intention to conduct such ADR session remains to convince the man and to give the woman another chance. This is obviously a plus point for a man but in most of the cases it backfires. Men being weak in expressing and women getting the sympathetic benefit of assumption, men's side remains under represented and sometime unrepresented. Suppose there is a mediation process going on for domestic strife. All the person involved in the session primarily assume that the man is arrogant and the woman is victims. It's not that the woman is guilty but sometimes there may be some expectation from the men's side. That part of the story remains unheard which is a major drawback for men. In many cases man avoid ADR like session as they think they will not be adequately represented by the mediator, facilitator or counsellor as they will predominantly cater the woman's need more. This kind of thinking makes the process harder, unreliable and less equitable for a man. For example, if we consider a social experiment. Subject 1 (S1) is a male University student in a relationship with Subject 2 (S2) who is a female University student. They had some relationship issue and S1 wants to break up. S2 wants to go for mediation but S1 thinks his side will be unheard and he will not get proper Justice as S2 has already gain the sympathetic attention from the mediator by crying.

#### 4.4 Toxic Male Trait: Reputation and Stigma

Be it the natural order or the historical practice, the man and ego issues have always been in spotlight. It is the fault in our societal upbringing that men are less interested to compromise than the women. Suppose there is a disagreement between the husband and wife, sometime it hurts the sentiment of the husband to comprise with his point of view. Even if he does, then comes the brutal trolling of the society. Instead of considering it as wise and kind act, the society

considers him to be weak and puny. In most of the case it has been evident that man hesitate to bend and to compromise with their thought. Even they consider it as a matter of shame to express their vulnerability and sorrow. Instead of a heartfelt expression in most of the cases it results into anger and violence. They choose anger or violence as a medium for expressing their dissatisfaction instead of communication. Study from the man box report shows that in some cases man thinks if they show anger or choose violence, they will get respect. ('Toxic Masculinity: How to Recognize and Treat It', n.d.) The report from the violence policy centre shows that in most of the homicide cases women are killed by the men and most of the men are previously known or somehow connected to them. And the number of husband wife and exes are high. ('When Men Murder Women | Violence Policy Center', n.d.)

In process like ADR, the toxic male ego works as a major drawback for men. It is not that only male are egoistic and females are not, but in some cases If men compromise with their ego the problem doesn't even arise. In the session sometimes men hesitate to be soft and bend from there rigid mentality which may result into separation or in a negative outcome.

#### 5. Backlogs in the Legal System

While alternative dispute resolution resolve dispute based on mutual respect beyond textual interpretation of law. It has been appeared that the legal system has been established to support women for protection. It is not that the legal system is fully biased towards woman and man doesn't get any legal support, rather the issue is yet to rise higher and still under represented. Male getting abused, male support etc. issues are getting loud day by day. But still the primary assumption favours the women. It is very common in most of the country to have a legal framework for the protection of women. Almost in every country there are legislations which particularly focus on women protection them from torture and cruelty. Beside there are legislation related to domestic issues such as alimony, maintenance etc. apart from a national and human rights perspective. But legislation specifically focusing on male issues is scarcely available. Most of the male issues are covered under the regular legislation framework or human rights perspectives. (Bunch, 1990) In many countries such framework is yet to be introduced and such issues are yet to be addressed.

In an incident of domestic abuse, the legal framework indirectly favours the women by a preconceived assumption. (Lewis, n.d.) Judges, meditators or the facilitator are sometimes fails to recognise the male victimhood properly. Various restraining and protection orders are less frequently given to a man than a woman which leaves the man vulnerable and to continued abuse. Sometimes judges and the professional may unconsciously apply gender assumption while making decision. As example a man may be seen as less likely to

require emotional compensation and support in both civil and criminal issues.

The pitfall of false allegations is common in domestic issues, often becomes a sensitive matter to deal with in ADR. For the stereotypical gender role, it become quite common to believe that in a case of domestic violence or dowry the man is criminal. So, when a woman brings any allegations against a man in such matters, even if it is false, the primary assumption goes in favour of the women.

Again, in a child custody case the mother can claim that the father is abusive, negligent and unfit to take care of the child. Even if it is false the benefit of doubt goes in favour of the women. The most frequent incidence of false allegations happens in case of sexual harassment and domestic violence. There are so many incidents where the man and woman were in a mutual relationship and had mutual intercourse but the woman claimed that she has been forced. This type of incidents is common nowadays. In 2018, CRISP, A Bangalore-based NGO started #mentoo movement against false rape allegations against men. ('Now, Bengaluru NGO begins #MenToo campaign', n.d.) In 2019 the social media was taken to storm when the famous Hollywood actor Johnny Depp filed a defamation suit against his ex-Amber Heard. He alleged that he has been tortured and abused by his ex. While amber heard alleged the opposite. ('Verdict in the Johnny Depp and Amber Heard trial.: Key Moments From the Johnny Depp-Amber Heard Verdict - The New York Times', n.d.) In society men are expected to be the primary breadwinner (Strachan, 2002). It also represented in the alimony matter that men should pay as the are an usual financial provider. But ignoring that practical fact the typical expectations from men of financial support sometimes led to unfair decisions as to man's role in family dynamic such as child support, cost, alimony etc.(Williams & Joan, n.d.)

## 6. A step to be Ahead for Gender Neutrality:

The principle of equality between men and women is a fundamental value. While usually we argue for equality of women, this part of the paper is suggestive, what are the further step we should look for gender neutrality, understanding the men's disadvantage position in the society.

### ➤ Need for more gender-neutral domestic laws

In many countries domestic laws focus on one particular subject like women or child. (The Women and Children Repression Prevention Act 2000, Bangladesh, 2000) Though we have so many human rights based international laws based on various declaration, treaties and convention but the scope for domestic enforcement of those laws are not wide enough to be practically implemented. ('Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment', n.d.; 'International Convention on the Elimination of All Forms of Racial Discrimination', n.d.; 'International Covenant on Civil and Political Rights', n.d.; 'International Covenant on Economic, Social and Cultural Rights', n.d.; Nations, n.d.) The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) has been adopted for women, but it not so late where world community will argue for another convention on the Elimination of all Forms of Discrimination Against Men. So, instead of focusing one particular subject, the focus should be on gender neutral domestic laws ensuring justice for all. For example, laws related to domestic violence should be drafted in such way so that it can protect both men and women. After balancing the gender neutrality, there may be focus on special or more vulnerable category depending on the context. The legal framework should be established in a way where no one can misuse the gender bias against anyone.

Herein, in order to achieve a more effective and gender-neutral ADR system, the system should be based on a gender-neutral perspective. The mediators should be impartial and the system should be based on not only allegations but also evidence. Furthermore, the professional and person involved in aiding the ADR must have the emotional intelligence to understand the story both sides. As example if the mediator doesn't understand that a man can also be abused and victim, then he cannot conduct the session in a neutral and fair way resulting into injustice. There should be specific guidelines as to this and the professionals should be trained and skilled in relevant issues.

### ➤ Role of the professional

➤ The professionals or person aiding the ADR process can play a role of great significance to break the stereotypes of gender role. They should allow both man and woman to present their side of story without any kind of prejudices. There should be system of legal aid and consultancy for both the party. Specially for the men when the case is about false allegations. A clear feedback system should be there.

### ➤ Awareness campaign

Awareness campaign can play a crucial role to address and fight the gender bias stereotypes in the society. There may be campaign to raise the issue and educate people to ensure everyone is treated fairly in ADR process. Besides such campaign social media can play a very strong role in this regard to address the issue that man can be a victim too. Various content may highlight real life stories, victims' experiences. Empathy should be promoted irrespective of gender. Besides, Various community events, seminar etc can promote the issue with the help of various NGO and stakeholders. There may be educational workshop and training in collaboration with the professional. Furthermore therapy, physiological session may play an important role.

➤ **Understanding that communication is the key, not anger or violence**

A strife often escalates when one party fails to communicate and get trapped into anger and violence. For our social stereotypes Often, man faces the same problem where instead of communicating his concern he chooses to be violent. To get a successful and beneficial outcome in ADR, we all need to break this social stereotype and accept that men also cry, men also make mistakes. We need to understand that expressing our heart to our partner will not lower our self-respect rather it will make the bond stronger. Most importantly violence is not the way, rather communications and understanding are. There should be system of consultancy, psychological support and advocacy for man in order to make the journey easier.

➤ **Emotional understanding and social support**

Most of the men hesitate to express themselves in ADR in fear of the society. If we all come together and support each other hence the social acceptance will happen eventually. We have to keep in mind that what happening to others may happen to us also. Today we are trolling a man for getting abused, tomorrow some of us may be the victim too. Our emotional understanding, empathic attitude can make the journey easy for a man,

➤ **Punishment mechanism for false allegations**

False allegations may have a devastating aftereffect on a man. It can cause him loss of social reputation, financial loss, and also emotional trauma. Suppose a woman claimed that a man has harassed her sexually; even if the man is proved innocent, he faces social backlash, loss of reputation, and emotion trauma. In ADR there must be a mechanism for punishment for such false allegations, and the session should be evidence-based depending on the context. If the both parties are guilty, they both should be punished accordingly. As an example, in the recent case of famous Hollywood actor Johnny Depp and Amber Heard, the jury found both Johnny and Amber liable for defamation. ('Jury finds Depp, Heard both liable for defamation', n.d.)

➤ **Financial neutrality**

In ADR, when it is about money, the general assumption takes the spotlight that the men are the providers. But not every time is this is the true scenario. This kind of stereotype results in a less practical and unfair decision. There should be a fair and transparent system of financial assessment for the parties involved. In the recent case of Johnny and Amber, Amber was asked to pay around 10.35 million dollars as compensation for damage. ('Amber Heard Defamed Johnny Depp in Washington Post Op Ed, Jury Says', n.d.)

## 7. Conclusion

Be it man or woman, achieving gender neutrality in ADR for domestic issues is crucial for both. For men there are some unique challenges backed by social stereotypes, gender norms, and emotional incapability's. These obstacles can deprive a man of getting justice, which may discourage him from participating in any kind of ADR. A failed ADR or misused gender stereotypes may result into an unexpected and shocking way. It may affect so many lives if not handled carefully. Recently the social media went mad when the incident of 34 years old Indian techie *Atul Subhash* went viral. He committed suicide, in his death note and last video he alleged that his wife was abusing him and demanding money from him, he claimed that justice was due for him. ('Atul Subhash suicide case: Bengaluru Police arrest wife from Gurgaon, her mother and brother from Allahabad | Bangalore News - The Indian Express', n.d.) To overcome these obstacles, we need combined and humanitarian efforts. By acknowledging the issues and understanding the bias, we can move toward a more inclusive society. Through emotional understanding, awareness, and combined efforts, we can break the chain of outdated social stereotypes and create a practical, futuristic, and sustainable world where happiness and equality prevail.

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