

# Indian law favor women more - Need for an amendment

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## Abstract

From the Vedic age women are considered as Goddess and has been given a divine status thus to secure that status and position our legislature made certain laws to safeguard the women from their deterioration. After the amendment of the laws in favor of women it is still undeniable that crimes against women are rising rapidly. There was a time when we considered women as a one who can't survive without the support of male but now it has to be changed when each one of us is talking about the equality then why the law needs to be gender biased? India is still hugely orthodox when we talk about men staying at home not going to work looking after their children but for women the same situation is completely alright. The place where we live is male's world but laws are made as such which are biased towards them only. There are many laws in our constitution which need to be amended with immediate effect as these laws are not only gender biased but are also misused rapidly and due to which many innocent person have to suffer mental as well as physical torture which can never be justified. This is the matter of being a citizen of India and not just the being ladies or the gentlemen.

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## **Introduction**

Our society is male dominating society where women are considered as helpless and to make them Independent our legislature made laws which are biased toward male. We always talk about equality, which definitely benefits all genders irrespective of male or female but making such laws which affect only a gender is absolutely biased. We already witnessed many articles related to the trafficking of male for forced prostitution or they are subjected to sexual harassment and rape, but a male don't have choice to ask for justice because there are no such laws which are made to protect them from such heinous crime. We live in a country where crimes like, sexual harassment, adultery and rape etc. Can be done only by men, and if a man became the victim of such crime then he only will be considered liable if he speak of it or just witness everything silently because our law is talking about equality and it considers only women are subjected to rape. Is this can we call equality? Yes, this can be considered as equality by our law but not by the person who is the victim of such biased law. There are certain laws which affect only male as there are certain norms of society like men are not meant to be cry. Why man can't cry, they don't have eyes or they have lack of feelings? They also feel fear and pain and can cry anytime when they are break down from within. There are many laws which are unjust towards men, but still they have to follow such law as law is supreme and due to which many innocent person suffers a lot. Though unjust law is not at all a law but still it is being followed because no one has right to deny the law then why legislature has the right to make unjust laws? There is the concept of 'ignorantia juris non excusat' which means that ignorance of law is not an excuse, so whether law is unjust or unfair one cannot ignore it and has to follow it. We all talk about equality and our rights but if we actually peek towards reality our Indian Constitution is very far from it though having a certain provision regarding equality with exceptions. There was a time when to protect the women we need to made some laws but at this point of time there is an urgent need of amendment in some laws which are actually misused by women for personal gain and the innocent persons are getting convicted. When our constitution talks about equality to all at one side then why our laws are gender biased on the other side? There are many such laws which are gender biased and it has been proved by many false reported cases that they are misused by many women and due to which many innocent person has to suffer and sometimes even they are contemplated as culprit and there is urgency of amendment in such laws as they were made at a time when it was actually required.

## **Indian laws which are unfair towards men and need to be amended**

1. Adultery is defined under section 497 of the Indian Penal Code as whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years or with fine, or with both. In such case the wife shall not be punishable as an abettor.<sup>2</sup> It means if the husband commits adultery with the wife of another man is crime and he will be punished but if same is done by a wife with husband of another women then she cannot be prosecuted. This is why they misuse the law.
2. Rape is defined under the section 375 of the Indian penal code<sup>3</sup> and definition begins as ‘a man is said to commit rape’, irony begins at the first line of the definition itself as it clearly mention ‘a man’ why only men, there are also women who commits rape, what about them and how can law justify those women? Due to lack of legal recourse male who are victim of rape always remained as victim because our law never thought about protecting them and they can’t any action. Fourth situation of rape talk about that if a man has consensus sexual intercourse with the women on pretext of marriage or she considers herself to be willfully married to that man and sixth circumstance of rape says about consensus sex with a girl when she is less than eighteen years of age. These situations are misused by women in such a way that they will broke up and then accused the partner for forced rape and in later situation girls are enough matured at sixteen if they are giving consent for such an act.
3. Cruelty by husband or relatives of husband as defined under article 498A of the Indian penal code<sup>4</sup> is the section which is misused extremely by the married women. This section is definitely the perfect way to safeguard women and deliver justice to them but if we look into the depth where women even don’t have to give evidence to prove cruelty was justified at a point of time but now looking into the reality and number of false accuses over many innocent families who have to spend their life in jail as a culprit whose crime is that they married their son as a result of which they have to suffer and women simply does it for the sake of money thus this section required an

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<sup>2</sup>The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860.

<sup>3</sup>*Ibid.*

<sup>4</sup>*Ibid.*

immediate need of amendment as there are number of such false reported cases and many innocent are getting punished without even fault and here cruelty is not done by husband but by the wife, so wife should also be charged for cruelty done to husband or husband's family. The philosophy of law that an innocent person should not be punished shall also be verified after the amendment in such laws which are being made fun by the people.

4. Sexual harassment and punishment for sexual harassment dealt under Article 354A of the Indian Penal Code talks about a man committing any of the acts which comes under the purview of the acts specified under this section will be punished with rigorous imprisonment for a term may extend to three years, or fine or with both.<sup>5</sup> There is no such law for women though man can also be the victim of sexual harassment and can also be done by women thus the mentality that only women are subjected to such offences need to be changed and the laws should also be made for the protection of men from such offences.
5. Dowry-death given under the section 304B of the Indian Penal code says that where the death of the women is caused by any burns or any bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.<sup>6</sup> There are innumerable cases of burning and other physical injuries, and most cases might be just, but in few cases it can just be a house fire or any other such cause and in that case also husband or the relatives of husband has to suffer which is unjust.
6. According to the Hindu adoption and maintenance act, a boy is entitled to get maintenance till he turns 18 and a girl is entitled to maintenance until she gets married or till the time she decides to prove for herself.<sup>7</sup> This is the law which itself doesn't consider both the gender equal and if our law will be biased then how can the people be treated as equal. There was a time when this law was justified when women were weak or at deteriorating place but now both the gender are equal and this discrimination need to be end to make the law free from gender discrimination. When

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<sup>5</sup>*Ibid.*

<sup>6</sup>*Ibid.*

<sup>7</sup>The Hindu Adoptions and Maintenance Act, 1956, No. 78, Acts of Parliament, 1956 (India).

law will be changed then only woman will become dependent and will try to earn a living and work harder when they will be having knowledge that after this age they have to be dependent.

7. Under Hindu law both man and woman can claim permanent alimony or maintenance but under section 37 of special marriage act only woman can claim permanent alimony or maintenance. This section is not justified as the alimony or maintenance should be given on the basis of income and wealth and whether other party need the alimony or have sufficient funds to earn their livelihood. This law has actually been misused by the women who just got married under special marriage Act for the maintenance and Alimony. If both man and woman are educated and capable to earn living then no alimony should be given and then only these types of cases will be reduced and woman would think before getting into the fake marriages and thus marriage will also remain sacred. Many of the divorce had been done for the cause of better alimony and maintenance which they were not getting while living with the partner.
8. Stalking as defined in section 354D of the Indian penal code only protects a woman which reads as any man who follows a woman and contacts , or attempts to contact such woman to foster personal interactions repeatedly despite an indication of disinterest by the women and stalk her on internet.<sup>8</sup> If the same act is done to man then how they will be safeguarded or they can't be stalked by women because our law says women can't stalk a man.

### **Immediate Need of Amendment in such gender-bias laws**

We live in a society which talks about rights and equality, then such laws which are gender-biased are following discrimination rapidly needs to be amended in order to safeguard everyone's right to equality. There was a time when these laws need to be biased when the act was made but now many such news were already in air where man are also subjected to rape, sexual harassment and trafficking for prostitution then such laws required to be amended to save them from such biased laws. Men and women both are treated equal in the eyes of law then the biasness on these laws only makes us to think once whether these law can be treated as just, fair and reasonable or completely biased and preferential towards male. There are certain laws which are gender biased and are criticized from very long and still they are not amended. These crimes are of such nature that gave the women power to commit

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<sup>8</sup>.*Supra* note 2.

exactly the same crime for which they are seeking remedy and protection against man with impunity. Whenever the common man talk about their protection or ask for the remedy from the government of India, and ask the government to amend or change such biased laws, the government never completely denies the suggestion but always make fool to the people by saying that changes can be made only after proper discussion. The Government thus never raised this type of issues as it never took these issues serious for the man. According to them these issues can be problematic or serious only to woman but never they think the seriousness of these issues which definitely somewhere or other hinders the dignity of man.

These laws should be amended immediately as taking birth as man and woman is natural and these man-made inequalities should be removed in this 21<sup>st</sup> century where man and woman everyone is seeking for the right to equality. If Indian Constitution itself provides right to equality as the fundamental right and the law should protect that right then biasness in such law itself can never be justified. Laws are made for the protection of every individual irrespective of their caste, class, gender and religion. Then making of such laws which are biased toward one gender can never be said as reasonable. There was a time when these above listed acts were only done by man but now females are also doing such acts and man are also the victims of such acts. To protect them from such heinous actsthat are also committed by womenour laws needs an immediate effect to change it and let law safeguard the right and dignity of everyone irrespective of their birth as man.

### **Myth that men are neither sexually harassed nor raped should be removed**

The myth that sexual harassment and rape are done only to female should be removed as man are also subjected to such heinous crimes. Our law which only protects female from such offences shall be changed or amended. These are the crimes which are done only to females at appoint of time but now both men and women are the victim of such offences. Thus our law should also protect the victims of such act irrespective of their gender.

According to a recent Government study, about 52 percent boys and 47 percent girls were the victim of rape. More boys were raped than girls as boys are not only getting raped by woman but also by man. It is because we consider rape is about sex and only females are victim but it is about power and males are also the victim. By denying this concept that male are not the victims, we are perpetuating the violence and abuse. We have to support the male who are survivors of rape and legislature should also made law to protect the male from such offences

and to heal their scars. We have to accept the concept that that sexual abuse of men are not only in news but a reality in India.<sup>9</sup>

Only section in our Indian Penal Code which somewhere or the other protects male also for sexual offence on being neutral to all the gender is section 377 which deals with the natural offences which says whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.<sup>10</sup>

There are male who been the victim of sexual harassment don't realize it, but most of the victim do feel it but they can't do anything. There is no such law which protects them. Even the guidelines given in Vishaka case are put in place to protect only females from sexual harassment at work place but not the male. There are male, who being the victim of such acts can neither tell it to anyone nor have any law to protect them. There is no outlet for humiliation and no understanding of the hurt which they received. This matter of harassment of man should be taken as serious as for women because it definitely affects the male who is the victim of any such act. Men also feel harassed and there is no such forum for them where they can safely talk about it.<sup>11</sup>

There are already many male who are the victims of rape and sexual harassment in our country. Thus this myth that only females are the victims of such acts need to be changed as both male and females are subjected to such heinous act and this myth has to be abolished and government should also take initiative to change the mentality of the people and should make the laws for the protection of the male.

## **Conclusion**

The laws of India have been amended over time to favor women than these laws can be amended even now to protect male gender from gender-Biased law. The laws which are negatively biased towards man affect them from within. In this 21<sup>st</sup> century when rights are equal and duties are equal then why the laws need to be gender- biased. There was a point of time when such biasness in law was necessary but now after witnessing the situation where man are equally the victims of rape, sexual harassment , adultery etc. Then law need to be amended in favor of them to protect them from such offences. The women are committing the

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<sup>9</sup>*How gender is dangerous for men*, JAAGO RE! (Feb. 15, 2018, 09:00 PM),<https://www.jaagore.com/power-of-49/how-gender-bias-is-dangerous-for-men>.

<sup>10</sup>*Supra* note 2.

<sup>11</sup> Zara Khan, *Adam, What do you mean you were teased*, THE READ (Feb. 15, 2018, 09:47 PM),<http://www.thehindu.com/thread/reflections/men-too-may-be-sexually-harassed/article18351375.ece>.

same crime for which they need protection, and law protect them but when women commit such act law should also punish them as man are getting punished. There is an urgent need of amendment to safeguard the rights of man and protect their dignity. Wrong should be treated as wrong and crime should be treated as crime whether done by a man or woman. Law should not be gender- biased when it comes to the wrongful acts. There are many such laws which protect only one gender i.e. Females and injured parties of such cases are only man. When society's view has begun to change than law must also be change to protect every individual from wrong. All the laws which favor in-equality and support only a particular gender or law which is bigoted towards only one gender should be amended soon to protect everyone from unjustified law. Wrong can never be justified thus the laws which are wrong will also not be justified. One cannot ignore the law whether it is unjust and because of this many innocent people became the victims of such slanted laws. Thus the laws which favor women more should be amended so that they cannot misuse such laws as many are already doing and to protect innocent person from becoming the victims of these partial laws.