

Gender neutral criminal laws: is India ready?

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Abstract

Since olden times, one of the main social problems has been inequality, where women were treated inferior and hence required special protection by the law. However, the times have changed, where even men and transgender are subject to the same sexual crimes committed against women in India. The main purpose of this paper is to address the problem of inequality in criminal law, while keeping in mind the welfare of all genders. The paper elaborates various issues of gender inequality through various perspectives of women, men and the LGBT community.

The Constitution of India provides for the right to equality under Article 14 and the Right against discrimination under Article 15. However, Article 15 (3) allows the State to make special provisions for women and children. The paper examines the various provisions of the Indian Penal Code which are biased towards a specific gender and at the same time, fails to recognise the existence of other genders. Addressing the flaws specifically, the need for changes in the same is also highlighted, keeping in mind the perspectives of all genders.

While there is a necessity to provide equal rights to all genders, women have still not gained an equal footing with men. Making laws gender neutral may backfire since it can be heavily misused against women. Hence, gender inclusive or gender specific laws are a more viable approach, as elaborated in the paper.

The law recognises the existence of only the male and female gender and the relationship between them, hence not only depriving the other communities of their rights, but also failing to even provide them with an identity. In a time where equality is given the utmost preference and all humans are entitled and guaranteed basic human rights, the Indian criminal laws fail to ensure the same.

Keywords: Equality, Gender neutral, Gender Specific

¹STUDENT, SCHOOL OF LAW, CHRIST.

Introduction to the right to equality

The principles of equality and non-discrimination are part of the foundations of the rule of law.² ‘‘All persons, institutions and entities, including the state itself are accountable to just, fair and equitable laws and are entitled, without any discrimination, to equal protection of the law’’, noted the member States in the Declaration of the High Level Meeting on the Rule of Law.³

The right to equality and non-discrimination are provided in various international frameworks like the Universal Declaration of Human Rights (UDHR)⁴, International Covenant on Civil and Political Rights (ICCPR)⁵, International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶ where all states are required to ensure and guarantee all rights without any discrimination of any kind.

The right to equality and non-discrimination on the basis of sex are enshrined in Article 14 and Article 15 of the Indian Constitution. The protection under Article 14 is twofold- It prevents the State from denying ‘‘equality before law’’ prohibiting discrimination, and also prevents the State from denying ‘‘equal protection of the laws’’ which require that the state give special treatment to persons in different situations in order to establish equality amongst all.⁷ Article 15 of the Constitution protects the citizens from discrimination on various grounds, including sex. Non-discrimination is the foundation in any society which is governed by principles based on humanity.⁸

Patriarchy has been deeply ingrained in the mind-set of the society, where women have been discriminated against, victimised and deprived of their rights. Hence, various legislations were passed, guidelines given and decisions made, specifically for the protection of women. Some of these gender specific laws are The Sexual Harassment of women at Workplace (Prevention, Prohibition and Redressal) Act 2013, Dowry

²*Equality and Non-discrimination - United Nations and the Rule of Law*, UN (May 23, 2018), <https://www.un.org/ruleoflaw/thematic-areas/human-rights/equality-and-non-discrimination/>.

³*Id.*

⁴ Art. 1 and 7 of Universal Declaration of Human Rights.

⁵ Art. 3 of The International Covenant on Civil and Political Rights.

⁶ Art. 3 of The International Covenant on Economic, Social, and Cultural Rights.

⁷*Evolution of Part III*, PMINDIAUN (May 23, 2018),

<http://www.pmindiaun.org/adminpart/uploadpdf/77442Annexure%20II%20of%20the%20UPR%20National%20Report.pdf>.

⁸*JS Verma Committee Report*, PRSINDIA (May 23, 2018),

<http://www.prsindia.org/uploads/media/Justice%20verma%20committee/js%20verma%20committee%20report.pdf>.

Prohibition Act 1961, Indecent Representation of Women (Prevention) Act 1986, Protection of Women from Domestic Violence Act 2005 and so on. However, with the changing times and development of new genders and communities of different sexual orientations, the scope of these provisions and acts needs to be widened. As mentioned in the Justice Verma Committee report, there is a need for the society to recognise different sexual orientations.

With the increasing types and nature of crimes against both men and women, it would only be fair to make laws and provisions encompassing such crimes, irrespective of the gender. This paper examines the various gender specific provisions, explaining the need for change and finally suggests various midway solutions to the existing problem in the Indian society.

Hypothesis

While there is an immediate need for gender neutral laws, India is not ready for such a change considering the present state of women and the lacunae in the law and implementation of the same for their protection. Hence, the need of the hour would be gender specific and gender inclusive laws instead, with particular changes made to certain laws as mentioned further on in the paper.

Research methodology

This paper limits the scrutiny of gender specific provisions only with respect to Criminal law, i.e. the Indian Penal Code, geographically restricted to the Republic of India. The paper analyses various legislative provisions, reports by the law commission and the Justice Verma committee, comments by respected lawyers, news articles of incidents and various journals, to come to a conclusion which would be feasible in the Indian society.

Gender neutrality

Oxford dictionary defines “gender-neutral” as an adjective, “suitable for, applicable to, or common to both male and female genders.”⁹ Gender neutrality is an idea or a movement which encourages avoiding negative differentiation among people on the basis of people’s sex or gender, with regard to policies, language and other roles. It aims to bring about

⁹*Gender-neutral*, OXFORDDICTIONARIES (May 23, 2018), <https://en.oxforddictionaries.com/definition/gender-neutral>.

equality and parity, preventing superiority of either of the genders over the others in all socio-legal aspects. Gender neutrality advocates the prevention of discrimination against any gender, where all genders are protected but not at the cost of the others. The report made by the 172nd Law Commission stated that “Since the possibility of sexual assault on men, as well as homosexual, transgender and transsexual rape, is a reality, the provisions must be cognizant of the same.”¹⁰

There have been many strong objections against gender neutrality, raised by feminists and groups that work for rights of a woman. While most feminists advocate women rights only, feminism in its true sense means the “advocacy of women’s rights on the ground of the equality of the sexes.”¹¹

Provisions of the Indian penal code

Outraging the modesty of a woman¹²

Outraging the modesty of a woman is punishable under section 354. While the section initially begins by using the word “whoever”, it proceeds to use “he will outrage her modesty” making it gender specific, where only a man can be the perpetrator and a woman the victim. This provision can be severely misused since various acts committed by a man can come under this through wide interpretation. Section 509 of the IPC specifies about words, gestures or acts intended to insult the modesty of a woman.

Stalking and voyeurism

The provisions for stalking¹³ and voyeurism¹⁴ which were added recently by the Criminal Law (Amendment) Act 2013, also specifies the man being the perpetrator and women being the victim. With the increasing use and accessibility of technology and social media, anyone irrespective of any gender and age can obtain information and keep track of

¹⁰JoshitaJothi&Keshavdev JS, *rethinking rape: Should the law still confine to the paradigm*, 2(1) NLUJ L.R. 57, 59 (2014).

¹¹*Feminism*, OXFORDDICTIONARIES (May 23, 2018), <https://en.oxforddictionaries.com/definition/feminism>.

¹² Section 354 of The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860.

¹³Section 354 D of The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860.

¹⁴Section 354 C of The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860.

people's lives. These crimes require mere mental intent, which can be present in both genders.

Bigamous marriage

Section 497 of the Indian Penal Code makes adultery punishable. However, being gender specific, it punishes only the man or husband who commits the adultery and treats the wife or the woman as a victim. This is prima facie discriminatory and violative of the right to equality as guaranteed by the Indian Constitution. The offence is equally committed by both involved, with consent. While criminalizing adultery might be necessary to protect the sanctity of marriage, assuming that only women can be victims fails to serve the purpose. The Justice Malimath Committee suggested making this provision gender neutral, giving equal treatment to both the wife and the husband who commits the extra marital affair.

Sexual intercourse with the inducement of marriage

Section 493 punishes any man who causes a woman to have sexual intercourse with him, on inducing a belief of lawful marriage. The point to be noted here is that a man is punished merely for cohabitation with a woman, even if it is with her consent.

Dowry death and cruelty by husband and family

There is a presumption that if a woman is found dead under mysterious circumstances within the first 7 years of her marriage, the husband and relative will be arrested for the death.¹⁵ While this provision is primarily for the protection of women and abolition of the evil practice of dowry, Section 304 B, section 498A and the Dowry Prohibition Act¹⁶ have been widely misused to cause agony to the accused that are put through this ordeal. The sympathy is always towards the female victim and there is an automatic assumption that the husband is guilty, causing a bias to develop towards the wife. The husband and his family are subject to harassment, interrogation and get arrested, leading to a verdict before the actual trial.

Rape

¹⁵Section 304 B of The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860.

¹⁶Dowry Prohibition Act, 1961, No.2 28, Acts of Parliament, 1961 (India).

“A murderer kills the body, but a rapist kills the soul”, remarked Justice Krishna Iyer in the case of *Rafiq v State of UP*¹⁷ While the definition of rape has been widened after various horrific incidents¹⁸ and amendments¹⁹, it is still discriminatory in failing to recognise male victims and women perpetrators. It needs to be understood that rape is not merely about the lust but also about having a sense of power and control.

Rape is committed by people of various ages, genders and geographical boundaries.²⁰ Hence, there must be no discrimination based on any basis, including gender and sexual orientation. Gender neutral laws will be effective for the improvement of registering and reporting such crimes.²¹

Section 377

While rape of a woman by a man is punishable under Section 376, rape of a man by a man comes under the purview of Section 377. Sadly, both consensual and non-consensual homosexual intercourse is punishable under this section, where there is no distinction made between coercive and consensual intercourse, as is done in the case of heterosexuals.

In its 172nd report, the law commission recommended that rape laws be made gender neutral. This not only ensures that Article 14 and Article 15 are followed, but it also guarantees the recognition and protection of all identities individually.

While most argue that rape does not affect men and women in identical ways, the fact still remains that men get affected adversely. Studies²² show that victims experience long term psychological and behavioural effects, including depression, flashbacks, anxiety, chronic headaches, increased vulnerability and loss of self-respect, some persisting even years after the rape. The loss of self-respect led to several victims to self-destructive behaviour including drug abuse, alcohol addiction, and suicidal tendencies, also making them antisocial.

¹⁷Rafiq v State of UP (1981) 1 SCR 402 (India).

¹⁸Nirbhaya Rape case, Mathura rape case.

¹⁹The Criminal Law (Amendment) Act, 2013, No. 13, Acts of Parliament, 2013 (India).

²⁰SatyaPrakash, *SC rejects PIL to make rape, sexual harassment cases gender neutral*, THE TRIBUNE, (Feb. 2, 2018), <http://www.tribuneindia.com/news/nation/sc-rejects-pil-to-make-rape-sexual-harassment-cases-gender-neutral/537649.html>.

²¹Harish V Nair, *Men victims too: PIL in Supreme Court wants women punished for rape*, INDIATODAY, (May 23, 2018), <https://www.indiatoday.in/mail-today/story/men-victims-too-pil-in-supreme-court-wants-women-punished-for-rape-1142456-2018-01-12>.

²²*National Intimate Partner and Sexual Violence Survey (NISVS)*, CDC <https://www.cdc.gov/violenceprevention/nisvs/index.html>.

Perspectives:

Men and transgender being the victim

Men are subject to certain gender stereotypes of being the stronger and dominant one, where any sign of weakness or admittance to falling victim to a woman will be perceived as feminine behaviour and they end up being shamed in the society. Another reason why sexual crimes against men aren't reported is the lack of proper laws for their protection, where most laws and provisions assume that only men are capable of committing crimes against women. While the police and society are still not equipped enough to sensitively handle cases of women being raped, one can only wonder what the case with male rape victims would be. There are various instances²³ where a man was mocked by the police for being harassed and stalked on social media, another was sexually harassed at work and had no recourse, and another was raped by a female and was laughed at and humiliated by his own friends.

The existence of the “**Male Rape Trauma Syndrome**” was first recognised in the case of *People v Yates*²⁴. The Court said that men who have been victim to both heterosexual and homosexual rape exhibit a trauma syndrome parallel to that found in women who were raped.

Homosexuality is criminalised under Section 377 in India, hence depriving the LGBT and transgender communities of their rights. This is one of the main reasons why most coercive homosexual intercourse is unreported, the other reason being the social stigma the LGTBQ and transgender communities face in the society. Regardless of their sexual orientation and social acceptance, these rape and sexual abuse cases still keep increasing.

Rape of men by men and men by women do not come under the purview of Section 375, hence providing male victims no recourse. If a man reports a rape by a woman, he is mocked and if he reports a rape by a man, he is shunned and punished under Section 377 of the IPC.

Women being the perpetrator

²³ Zara Khan, *Adam, what do you mean you were teased?* THEHINDU, (May. 23, 2018), <http://www.thehindu.com/thread/reflections/men-too-may-be-sexually-harassed/article18351375.ece>.

²⁴ *People v Yates*, 637 N.Y.S.2d 625.

Women have always been perceived to be the weaker sex, incapable of performing crimes. However, the reality says otherwise, with women committing sexual crimes against men and even women themselves. Laxmi Murthy recognised that women are capable of sexually assaulting both men and women.²⁵

Transgender

Transgender i.e. *Hijras* have their origins in the Mahabharata and Ramayana. Transgender is used to refer to those people who do not conform to the traditional notions of gender identity, appearance and expression.²⁶ They have been one of the most disadvantaged communities since although their existence has been recognised; they have been deprived of their rights and treated like outcasts in the society. They have no recourse or redress for sexual offences committed against them²⁷, which are generally branded as ‘unnatural sex’ and criminalised under Section 377 whether they come under its ambit or not.

Gender neutral laws can help them gain recognition and provide to them the rights and remedies they are entitled to, without any discrimination.

The case of Pinki Pramanik, an athlete who was charged for rape and was subject to inhuman torture in police custody, shows the sad state of affairs for transgender. There were photographs where Ms. Pinki was groped by a male policeman while taking her to jail²⁸, where she was subjected to three gender determination tests in a government hospital, the results being inconclusive due to lack of facilities.²⁹ An MMS was leaked online showing her naked and undergoing these tests, and she was also lodged in the male ward of a prison in Calcutta. It was rightly said that “Ms. Pramanik has been stripped of her dignity by the State which should be protecting her rights in the first place.”³⁰

Homosexuality

²⁵Lakshmi Murthy, *Comments by Lakshmi Murthy to Criminal Law Amendment Bill 2000*, PLDINDIA, (May 23, 2018), <http://pldindia.org/wp-content/uploads/2013/04/Comments-by-Laxmi-Murthy-to-Criminal-Law-Amendment-Bill-2000.pdf>.

²⁶Prathima R Appaji, *The Hijra and Kothi Movement; a struggle for respect*, MINDTEXT, (May 23, 2018), http://www.mindtext.org/view/118/The_Hijra_and_Kothi_Movement;_a_struggle_for_respect/.

²⁷Upendra Baxi, *Human Rights Violations against the Transgender Community*, UMICH <http://ai.eecs.umich.edu/people/conway/TS/PUCL/PUCL%20Report.html>.

²⁸Soutik Biswas, *The degradation of Pinki Pramanik*, BBC, <http://www.bbc.com/news/world-asia-india-18704298>.

²⁹*Why Pinki Pramanik's case is worth the outrage: 10 big facts*, NDTV (May 23, 2018), <https://www.ndtv.com/cheat-sheet/why-pinki-pramaniks-case-is-worth-the-outrage-10-big-facts-491419>.

³⁰*Id.*

As pointed out by Karuna Nundy, “Vaginal intercourse has been kept legal and anal intercourse has been criminalised.” While reviewing rape laws³¹, the committee also recommended the deletion of Section 377. Laxmi Murthy emphasizes on the deletion of section 377 and that consensual sexual activity between two adults of the same gender should not be punished by law.

The norms of the society have always been male-female marriage and hence, anything that does not conform to it is not accepted by society or by law.

Views for gender neutrality

To quote the Justice Verma Committee report, “All sexual identities, including sexual minorities, including transgender communities are entitled to be protected. The Constitution enables change of beliefs, greater understanding and is also an equally guaranteed instrument to secure the rights of sexually despised minorities.”

Gender neutral laws would ensure equality and a life of dignity to all genders and even take into account the need of the LGBTQ community. An Activist Amba affirms that where the law recognises people across the gender spectrum, then the law must also provide for the protection and prevention of sexual assault on these people falling in such spectrum.³² Gender neutrality does not make female victims more vulnerable, but merely acknowledges the existence of male victims and the challenges which limit their complete access to and denies their participation in truth, justice, reparative, and reform processes.³³

The law is supposed to be dynamic and a social phenomenon which delivers justice to the society. It is shaped by the same society which it shapes. The law is subject to constant change, depending upon the varying needs of the society and it is the duty of the State to recognise and protect such needs, which requires enforcing an efficient legal system for the protection of all.

Making the laws gender neutral increases the emphasis on the act itself, regardless of the gender of both the victim and perpetrator. The mere fact that women are more vulnerable

³¹Review of rape laws, 172nd Report, LAWCOMMISSIONOFINDIA (May 23, 2018), <http://www.lawcommissionofindia.nic.in/rapelaws.htm>.

³²Deya Bhattacharya, *SC dismisses plea to make sexual assault gender neutral: Move reflects court's reluctance to view rape cases as victim-centric*, FIRSTPOST, <https://www.firstpost.com/india/sc-dismisses-plea-to-make-sexual-assault-gender-neutral-move-reflects-courts-reluctance-to-view-rape-cases-as-victim-centric-4337983.html>.

³³Kapur A and Muddell, *When No One Calls It Rape: Addressing Sexual Violence Against Men and Boys*, ICTJ, (May 23, 2018), <https://www.ictj.org/publication/sexual-violence-men-boys>.

and crimes occur mostly against women does not justify the lack of protection for other communities. Gender neutral laws simply widen the scope of those protected and those punishable under the provision, ensuring equality to all without discrimination.

While we have been trying to progress as a country, India has been pushed backward by criminalizing homosexuality and recently, with the dismissal of a PIL in the Supreme Court to make the laws gender neutral.³⁴

However, since the laws have a tendency to be misused, all present complexities and the current situation of the society need to be taken into account while making them.

Views against gender neutrality

While the law is supposed to be dynamic and cater to the needs of the society, it cannot be made merely to please the agitated public. Women have been discriminated against, given an inferior status and made to conform to gender roles of procreation and staying at home. Women, who are generally considered the weaker gender, have been continuously subject to various crimes like rape, sexual assault, molestation, domestic violence, stalking, sexual harassment and so on. Article 15 (3) allows for the State to make special provisions specifically for the protection of women and children. Legislations, guidelines and judicial decisions have been made primarily for the protection of women. The legislations and decisions have various loopholes leading to its misuse and lack efficient implementation, which is why these crimes against women are still rampant.

There are extreme possibilities that these gender neutral can backfire and be misused against women. Author and advocate Flavia Agnes believes that if laws become gender neutral they will only do harm and that the basic and primary problems will not be highlighted.³⁵ In her article in Economic and Political Weekly Journal, Agnes mentions about how gender neutral laws would open up avenues for inflicting greater trauma and humiliation towards an already marginalised section, hence defeating the very purpose of the reform.³⁶

Gender neutral provisions

³⁴Vrinda Saxena, *Are we ready for gender-neutral sexual offence charges?*, DAILYHUNT, (May 23, 2018), <https://m.dailyhunt.in/news/india/english/the+indian+economist-epaper-indecono/are+we+ready+for+gender+neutral+sexual+offence+charges-newsid-81403669>.

³⁵Flavia Agnes, *Law, Ideology and Female Sexuality: Gender Neutrality in Rape Law*, 37(9) EPW (2002) <http://www.epw.in/journal/2002/09/perspectives/law-ideology-and-female-sexuality.html>.

³⁶*Ibid.*

Certain provisions in the IPC are already gender neutral, where the term ‘whoever’ has been used instead of specifically specifying a gender. The provision for punishment for acid attacks³⁷ is gender neutral not only allowing both men and female to be punishable, but it also doesn’t specify that the victim needs to be a women in particular, inspite of women being the more common victims.

Is India ready for gender neutral laws?

As recognised by the Justice Verma Committee, gender roles and stereotypes are embedded into the heads of children at a very young age when they can be influenced easily. These play a role in moulding the society. The required substantial changes can be brought about bringing a change in the mindset of the society and not merely by legal changes.

Rape complaints by women can lead to counter claims by men to pressurise the women to withdraw complaints. Women being more vulnerable not only suffer as a victim but will have to endure the claims as well, if she is innocent.

There are still lacunae in law which need to be filled to ensure better protection of women. The law still does not recognise marital rape as a crime, juveniles are getting away with raping women brutally as seen in the Nirbhaya rape case and various practices like female foeticide and dowry that are detrimental to women still exist. It is true that the protection of women should not be done at the cost of other communities. The law should seek to protect the interests of the LGBTQ community and male victims while providing for the special protection of women. This would ensure both the upliftment of women as well as the protection of other communities and genders.

Conclusion

Gender specific and gender inclusive laws: the way ahead

Gender neutral criminal laws are the need of the hour, with the increasing occurrence of various types of crimes against all genders. The law makers need to accept the fact that rape is not limited to females by males and widen the scope of the provisions. However, India would be ready for completely gender neutral laws only once the deep rooted mindset of male superiority and stereotypes are removed and once the various legislations

³⁷Sec. 326B, The Indian Penal Code 1860, No. 45, Acts of Parliament, 1860.

made for the protection of women are implemented effectively. Women are still suppressed and vulnerable, which is why making these laws gender neutral can prove detrimental to the efforts made for their protection.

Regardless of whether there will be any substantive changes in the law, certain measures like counselling services, support groups, help lines and NGOs need to be set up specifically for male victims as well. These institutions must be equipped with specially trained personnel and counsellors bound by a level of confidentiality, to provide moral support if not legal support. Medical care must be provided and the police must be sensitized to deal with such incidents. This way, not only will more crimes be reported but these victims will also have some remedy to help them get through the horrific incident.

Chapter Fourteen of the JS Verma Committee talks about education and perception reform, where the various existing misconceptions are elaborated upon. Considering the influence of education and perception, children also need to be brought up in a gender neutral environment, without having gender stereotypes embedded into their minds such as ideas like “boys don’t cry”, “women belong in the kitchen” and various other gender roles.

A midway solution to the problems mentioned before is to make the victim gender inclusive, while allowing the gender of the perpetrators to be gender specific. The gender of the perpetrator in rape laws could be inclusive to the extent of making heinous and extreme crimes by women punishable. This fulfils the purpose of recognising male victims and members of the LGBTQ community acting as a deterrent, while protecting women against false claims. Section 377 must be repealed and the rights of the LGBT community must be recognised by decriminalising consensual homosexual intercourse and criminalising non-consensual homosexual rape under Section 376. This not only recognises their identity, but it also provides for their rights and protects them. If the punishment for bigamous marriages would continue, the women involved in the extra marital affair must be punished as well, as long as the affair was consensual. This gives scope for the protection of those women who are falsely manipulated and blamed, while ensuring that those who voluntarily interfere in the sanctity of someone else’s marriage with each other’s consent, gets punished. Section 493 which punishes men who have sexual intercourse with the inducement of marriage must be ideally repealed. However,

keeping in mind the vulnerability of women, this provision could remain where men would be punished only if the woman was coerced into having intercourse.

There is a requirement to give emphasis to the act committed itself, and not the gender of the victim or perpetrator. However, certain legislations like the Sexual Harassment of women at Workplace (Prevention, Prohibition and Redressal) Act 2013 and Protection of Women from Domestic Violence Act 2005 should be amended to include male and transgender victims as well, with strict guidelines and procedures to help accurately determine the guilt of the accused. Lastly, more effort must be put into the protection of women as well, like preventing female foeticide, improving the security of women, immediate action in cases of crimes against women and proper implementation, to ensure that the rights of women are upheld till an environment is achieved where women are truly at an equal footing with men. A step-by-step plan with the cooperation of various institutions like the police, counselling services, support groups, NGOs and members of the society must be integrated and must cooperate to achieve a society where every member's rights are protected, to the maximum level as long as it would not be detrimental to the rights of women. While many would argue that true equality would exist only when both men and women are treated equal, without discrimination, there is a provision which says that "Nothing shall prevent the state from making any special provision for women"³⁸, in the very Constitution that is the embodiment of the legal system.

To conclude after examining various provisions and the benefits and issues of implementing gender neutrality in criminal laws, I believe that while this country requires gender neutrality in all socio-legal aspects, it can only be achieved once a stage is reached where the rights of all genders are recognised and protected, ensuring equality and parity among all as guaranteed by our very own Indian Constitution.³⁹

³⁸INDIA CONST. art. 15, cl. 3.

³⁹INDIA CONST. art. 14, art. 15.