

## POSITION OF MALES IN INDIAN LAWS: GENDER EQUALITY OR GENDER BIASNESS?

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### Abstract

For ages, India had for most of its part, a patriarchal society, where women occupied a subservient place, with few rights and freedoms which were reflected in the social norms and laws of the country.

It was in 1970's and 1980's that women movements in India had taken pace and had continuously contended the formation of legislations protecting women. Later in 1990's the Post Globalised witnessed a total change in the role of women. But the legislators went a step ahead to pass gender specific legislations clearing their intention that 'Protecting men is not their mandate anymore'. This phase also witnessed the activeness of judiciary in order to protect women.

However, with the laws evolving to promote gender equality, a cursory view of major laws seems to suggest that we have gone too far on the other extreme. It can be perceived that men are losing the battle of the sexes as the Indian laws have championed the cause of women both in the social and legal context. The dream of gender equality has fallen prey to the gender specific legislations, like the Protection from Domestic Violence Act 2005, the anti-dowry legislation, etc which are now being misused by manipulative and conniving women, leaving men without any recourse in either law or society. The aim of the laws formulated to benefit women was to achieve gender equality but instead, these laws are increasing the gender divide. The gulf between men and women and resentment with the shrinking of their rights as perceived by men which make them victims of pro-women laws is causing in some way a social backlash in society.

**Keywords:** battle of sexes, gender-specific legislations, Indian laws, social backlash

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## Introduction

The Ancient Era is said to be the Age of Parity for the Indian society as during this period both men and women fairly enjoyed equal status and rights in the society. During this period the Aryans were the main inhabitants of India and they gave the status of Goddess to the women. The women in this era enjoyed immense power in certain cases more than that of men this is evident from their representation in various rituals and assemblies. In ancient Ramayana when Lord Rama had to perform a ritual then in the absence of Goddess Sita her Golden statue was kept next to Lord Rama. In fact no ritual was said to be complete in the absence of women.

The Medieval period in the Indian history is also known as the period of 'Dark Age' as it was during this era that the gender inequality started to creep in the Indian Society. This period witnessed the steady decline in the status of women. The main reason behind this was that this era saw frequent conquest by foreign rulers who with their people also got their culture which included practices such as women being the property of her father and brother having no will of her own. This thinking has been later said to be adopted by Indian men as well. The other reason could be that the Indian men wanted to protect their women from the foreign rulers as they practiced polygamy and put other women in their harems. Moreover these rulers considered women as their source of entertainment. It was due to all these reasons that the Indian men were compelled to put their daughters and wives behind 'Purdah'. The said practices were not developed to curb the freedom of women but they were necessary steps that were taken by the Indian men in order to shield their women from foreign rulers. Later on, it is an undeniable fact that the religious books and personal laws were misinterpreted by the religious heads which further added to gender inequality.

The Modern Age in India is marked with the decline in Mughal Empire and rise of the British Raj. This period witnessed the efforts of Raja Ram Mohan Roy and Sir Syed Ahmed Khan for the upliftment of women in the Indian society coupled with the ban on practice of sati, widow remarriage, educating women, abolition of Pardah system. This era saw the inception of the women centric studies in India. Later on, Post Independence, while drafting the Constitution of India the main aim of the Constituent assembly was to insert such provisions in the Constitution of India that accord an equal status to women in the Indian Society. But here the assembly faced two dilemmas firstly whether gender equality

is to be given more importance than personal laws or not and Secondly, when the women sect of the assembly focused on giving equal opportunity as opposed reservations to women then in order to uplift women what shall be given more importance reservations or granting equal opportunity. Here it is to be noted that even the learned scholars who drafted the Constitution of India focused on protecting the rights of women and minorities and they clearly ignored the rights of men.

Justice, liberty, equality and dignity are the four main elements guaranteed by the Indian Constitution. They all are the steps for the attainment of a welfare state that guarantee its citizen 'equality before law' and 'equal protection of laws'. But is unfortunate that even after 70 years of our independence, men continues to fall prey to the gender specific legislations that are enacted in the name of welfare of women.<sup>1</sup>

For ages, India had for most of its part, a patriarchal society, where women occupied a subservient place, with few rights and freedoms which were reflected in the laws of the country. Consequently, Legal reforms were taken as the main agenda in order to provide for Gender Justice in India. This was being done from the time of Modern India, where the practices such as sati, widow remarriage, child marriage were abolished due to the sincere efforts of the British and the Modern thinkers of India. The point was also taken up during the period of nationalist struggle.<sup>2</sup> Post independence however, the members of the Drafting Committee included Article 14 and 15 in the Constitution of India. The former Article states 'that the state shall not deny to any person equality before the law or equal protection of the laws within the territory of India' and the latter states provides for protection from discrimination on certain grounds such religion, race, caste, sex or place of birth.<sup>3</sup> Though the said article protects from discrimination on certain grounds, but the clause (3) of the articles states 'Nothing shall prevent the state from making any special provision for women and children' i.e. any special provision that is made in favour of women and children then the same shall not be violative of Article 14 and 15(1) of the Constitution of India, as it will fall within the ambit Test of

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<sup>1</sup> Dipa Dube, "Domestic Violence Bill : A Critique" 30 IBR 441 (2003).

<sup>2</sup> Swapna Mukhopadhyay, "Law as an Instrument of Social Change: The Feminist Dilemma" in Swapna Mukhopadhyay, In the Name of Justice: Women and Law in Society 2 (Manohar Publishers and Distributors, 1998)

<sup>3</sup> M.P.Jain, Indian Constitutional Law 1294 (Lexis Nexis Butterworths Wadhwa, Haryana, 6<sup>th</sup> edn., 2010)

reasonable classification determined by the Judiciary.<sup>4</sup> There is no doubt about the intention of the drafters regarding the framing of this provision as when it was inserted the position of women in India was very vulnerable. In other words, women lived in a male dominating society "where the wish of the father or husband was a command for her".

But it was in 1970's and 1980's that had witnessed the rise of the women movements in India due to increase in crimes in India against women. The movement addressed various forms of violence such as incest, child rape, gang rape, domestic violence, dowry related death, custodial rape, female feticide, honour killings etc. This period witnessed a series of laws which were aimed to protect women from violence. The amendment in the rape law were first to come followed by the laws on cruelty against women and dowry death. The dedicated lobbying, seminars, conferences, spreading awareness amongst people led to a lot of subsequent amendments in the present Criminal Law i.e. The Indian Penal Code, 1860, The Code of Criminal Procedure, 1973 and the Evidence Act, 1860 and moreover some subsequent new laws were enacted for the effective protection of women.<sup>5</sup> The amendments that were introduced widened the definition of all the crimes against women coupled with enhanced punishment for every offence.

But in Post Globalization era the situation has substantially changed for men and as well women .On one hand we have the male species who for the first time is not merely the perpetrator of violence but also a chief receiver of the same i.e. in the form of sexual assault, cruelty, rape, frivolous complaints etc.<sup>6</sup> Further the absence of law to deal with the men's experience of violence reflects that the entire legal system is biased against them. On the other hand women were now not only confined to the four walls of house but they played a significant role in the running of the Indian economy. This is the phase when women in India were at par with men in terms of employment, education and social status which is largely due to the pro women laws passed after post independence. But the legislators in this phase as well went a step ahead to pass gender specific legislations clearing their intention

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<sup>4</sup> Dr. J.N Pandey, *The Constitutional Law of India* 81 (Central Law Agency, Allahabad, 47<sup>th</sup> edn., 2010)

<sup>5</sup> Vibhuti Patel, "Campaigns Against Gender Violence (1977-1993)" in Shirin Kuschedkar and Sahiba Al-Issa et.al, (eds.), in *Violence Against Women: Women Against Violence* 4 (Pencraft International, Delhi, 1998)

<sup>6</sup> Mrinal Pande, *Supra* note 38

that "Protecting men is not their mandate anymore".<sup>7</sup> The laws which are made for the unprivileged women are not actually being enjoyed by them rather than the privileged women are misusing these laws to exploit men for money or to keep them at their mercy. Though, there have been cases of misuse by the latter category as well but in minor situation i.e. maids filing frivolous complaints against their employer.

Further, the way law has been moulded by the government over the years on the demand of the radical feminist, prima facie favours the women without even giving a fair chance to the accused of defending himself. The men in India have fallen prey to the policy of the government of giving effect to the rule of subjectivity over the rule of objectivity. This phase also witnessed the activeness of judiciary in order to protect women. It may also be correct to point that most of the pro women judgments are not being passed by the free will of the judges as there have been many instances where the judges who have given pro men judgments have been criticized by all the women organization including the National Commission for Women. Furthermore, in many cases the Hon'ble judges have shown their helplessness by not affording protection to men under the gender specific legislations as making a new law is the work of the parliamentarians.

Hence from the above facts and circumstances it is important to examine the problems faced by the men in the post globalised era relating to the gender specific laws enacted in India.

### **The Issue of Gender Neutrality**

There is no doubt that earlier only women were subjected to violence in the society. But now, the modern day woman has made her way to the public space i.e. offices, malls, educational facilities etc.<sup>8</sup> Hence, with the advancement of women it is also important that law evolves according to the needs and aspiration of the society. Today, with the presence of woman at almost every aspect of society, it makes her not only the victim of violence but also a chief perpetrator of it. The rampant violence of cruelty and assault against men largely goes unreported due to the fear of being ridiculed by the society or being laughed at by the colleagues. Moreover, the policy of the Indian Government of not

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<sup>7</sup> Statement given by Ministry of Women and Child Development to Men's Right Association when a RTI was filed by them. .

<sup>8</sup> Shilpa Phadke, Supra note 41.

affording protection to men under the umbrella of gender specific laws has only added to all these problems.

Moreover, whenever a demand is made for making the laws gender neutral, the opposition has argued that due to India being a patriarchal society the same would harm the interest of the woman. Here a question arises that what is the relationship between making a law gender neutral in a patriarchal society and how will the same harm the interest of women.<sup>9</sup> Here it is important to note that when a man is asking for a gender neutral law, he is merely exercising his right of an equal protection of law guaranteed under the Article 14 of the Constitution of India. By no means can this demand be interpreted to mean that a male is trying to impose his patriarchal notions on the society. Moreover, on the other hand if the demand would have been to strip woman of their right to seek protection under these laws and so, protection must only be afforded to a man then the same would have meant that the male is trying to impose his patriarchal values on the law.

Further, the Post Globalised era witnessed a total change in the role of women. Women now are not just confined to the four walls of the house but are playing a significant role in the running of the Indian economy. This is the phase where women in India are at power with men in terms of employment, education and social status which is largely due to the pro women laws passed after post independence. Hence, not affording men the protection as envisaged under article 14 of the Constitution will be a clear violation of the Constitutional mandate set by the said Article. Moreover, it will also not be reasonable to challenge the validity of Article 15(3) that provides for special provision for both children and women, as still most of the women are not able to take the protection of the pro women laws in India due to the poor execution of the laws.<sup>10</sup> On the other hand, not protecting men will lead to the violation of their human right. Hence, it is important that the time is ripe enough that Article 14 and 15(1) of the Constitution are given an overriding effect over Article 15(3). So, that the protection of the law is extended to all without any discrimination on any basis. Further, it is important to note that equality is dynamic concept with numerous aspects and dimensions and it cannot be caged within conventional and

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<sup>9</sup> Oxford Pro Bono Publico, Submission to the Committee on Human Resource Development, Rajya Sabha (February, 2011).

<sup>10</sup> M.P Jain, *Supra* note 70, P.1300

doctrinal limits.<sup>11</sup> Moreover, all the jurisdictions have gender neutral laws in their respective countries. Such a situation raises a question that when the advancement and modernization of a country is seen through gender neutral laws then why is India moving back in time by passing gender specific legislations.

### The Test of Subjectivity and Objectivity

It is generally believed that the law in India has been gender biased. To certain extent it is true. This is because prior to the Amendment in Criminal Laws in 1983 and 1984 much of the focus was kept on a reasonable man i.e. what a reasonable man will do if he faces similar circumstances. Moreover, this rule of objectivity used to creep into the minds of judges while evaluating the evidence and pronouncing the judgment. The influence of this concept of a reasonable man was so much on the judges that even in genuine cases of violence against women the perpetrator was left free. Moreover, in cases of rape also much focus was given on the fact that whether sufficient resistance was shown by the victim, in case no then the same constituted giving of consent and as for the "reasonable man test" it would have constituted rape when sufficient force would have been used by the victim.<sup>12</sup> In other words, the force must be such that either it makes a reasonable man to believe that consent was not given or the amount of force which any other person would have used to avoid rape. It was after the controversial judgment of the Mathura case that this test of objectivity was replaced the test of subjectivity.<sup>13</sup>

After the amendments of 1983 and 1984 in the Criminal Law certain new provisions were included in the Indian Penal Code, 1860, The Code of Criminal Procedure, 1973 and the Evidence Act, 1872. The subsequent changes brought shifted the focus from the rule of objectivity to the rule of subjectivity. According to the rule of subjectivity, the conduct of the accused is judged from the perspective of the complainant.<sup>14</sup> In the case of rape, if the woman states that she had not consented for the sexual intercourse then it shall be presumed that the woman had not

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<sup>11</sup> *Maneka Gandhi v. Union of India* AIR 1978 SC 597

<sup>12</sup> K.N. Chandrasekhran Pillai, "Women and Criminal Procedure" in Amita Dhandu, Archana Parashar et.al. (eds.) *Engendering Law: Essays in Honour of Lotika Sarkar* ( Eastern Book Company, 1999).

<sup>13</sup> Flavia Agnes, "Violence Against Women: Review of Recent Enactments" in Swapna Mukhopadhyay, *In the Name of Justice: Women and Law in Society 2* (Manohar Publishers and Distributors, 1998)

<sup>14</sup> Oxford pro bono Publico, *Supra* note 77, P.5.

consented.<sup>15</sup> This test also faced the same problem which was faced at the time, when the test of objectivity was being applied. But the only difference this time was that, the sufferer in this case was the male. The test introduced such provisions which totally went in favour of women and violated the right of the accused to defend him. Moreover, the test also started to govern the verdict and mindset of the Hon'ble Judges as from the very start till the end the accused is seen or presumed guilty of committing the said act. In other words the test goes against the principle of "Innocent unless proven guilty".

Hence, it is clear from the above facts and circumstances that since 70 years of independence, the Government of India has failed to provide with the method that does not harm the interest of both men and women. The Government at some time has always compromised the right of the other gender in order to uplift the other.

### **The Issue Frivolous Complaints**

The culmination of the test of subjectivity introduced by the Amendments in Criminal Law in 1983 and 1984 was that it led to the misuse of the present law on Rape, Sexual Harassment and Domestic Violence. The acts that were fought for and enacted with the utmost honest intention for protecting the women in Indian society were now being misused by some manipulative women. The provisions are being misused for various reasons such as in cases of marriage it is misused either to extract money or to settle the scores with the husband and his family and in other cases women is usually misused to keep the rich employer, fellow mate etc at their mercy.

Moreover the presumption that 'honour' of an Indian lady is of prime importance to her and with the Indian society placing so much of importance on woman's purity, chastity, that she would think thousand times before filing a malicious complaint are not reasonable in the contemporary scenario.<sup>16</sup> Moreover, the Hon'ble Judges in one of the cases upheld this principle that a woman in order to take revenge will not put her character at stake to feature into the public eye.<sup>17</sup>

Consequently, it can be stated that, if the condition of Indian women was to improve through enacting laws then the post

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<sup>15</sup> Section 114A, The Indian Evidence Act, 1872 (Act 1 of 1872)

<sup>16</sup> *Id.*, P.11

<sup>17</sup> *Pandurang Sitaram Bhagwat v. State of Maharashtra* 2004 INSC 775



globalization era can be named as the golden era for women, as laws in this era were served to women on a platter.<sup>18</sup> On the other hand males are not only deprived from exercising his rights to protect himself from violence against him, but the right to adequately defend himself was also taken away from him by the amendments in the Criminal Law. The research purports to explore the truth behind the perception of the shrinking of men's acquired rights in law in India, and how it is actually affecting the whole gender construct as well as social repercussions on both genders in Indian society. The objective is to highlight the inadequacies of the pro-women laws and how having real and better gender equality in the laws of India can actually improve status of both genders in the country.

### ***Sumana Bhasin v. Neeraj Bhasin & Othrs.***

In this rare case of its kind, the court dismissed the complaint of domestic violence filed by a woman residing in South Delhi area stating that she falsified and fabricated various allegations and concealed important facts so as to harass her husband and in-laws.

## **The Issue of Gender Neutrality and Frivolous Complaints: A National and International Perspective**

### **National Perspective**

The issue of this gender specific law being misused is not new, when the present law was not even enacted and the women were protected under the garb of 498A and 304B even then there were many men's right organisation who protested against the then enacted law on the ground of its gross misuse. One such incident took place on November 23, 1998 when the Purush Hakk Saurakshan Samiti at a public meeting in Mumbai which was attended by a few 100 men and women. The main demand of the samiti was to scrap the Section 498A and insertion of a new section 498B which would include the husbands as well within the ambit of the domestic violence. The samiti further pointed out that there were around 3000 victims of the fake cases filed by the wife under Section 498A. Later in 1995 a sitting judge of the Bombay High Court, Justice P.K.Pendse agreed to the view that Section 498A is used to slander the innocent men.<sup>19</sup>

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<sup>18</sup> Flavia Agnes, Supra note 81, P.1.

<sup>19</sup> Rameshwar Balkrishna Pandit, "Wife's cruelties and her right to Maintenance", *Cri.L.J* 159 (1995).

Moreover the issue is not just about the misuse of the section 498A, a recent report of the National Crime Records Bureau show that in every age group men commits more suicides than women.<sup>20</sup> And, the figures are disheartening; the report shows that in 2010, 61453 males committed suicide as opposed to the 31,754 by women.<sup>21</sup> It is evident that the number of suicide committed by men are almost twice as much as done by women, but it is shocking to observe that, still Section 498A and 304B are gender specific laws protecting women. Further, it is not about the statistics that whether women are committing more suicide or men, but is important that the law guarantees an equal protection of law to all its citizen without any discrimination on the basis of gender.

Moreover, it is pointed that sting is not in section 498A, but it is in the provision of Code of Criminal Procedure<sup>22</sup> which makes the offence non-compoundable and non bailable.<sup>23</sup> Further, the Section 41<sup>24</sup> of the code gives wide powers to the police officer in case of arrest for cognisable offence. The section is as following:-

Hence it is evident from the above definition that Section 41(1) gives wide discretion to police officers in matters of arrest. Though, the provision was enacted with the intention to avoid unnecessary delay.<sup>25</sup> But now the same is being used by the police without any reasonability and credibility. Furthermore, the provision has provided for triple problem, *Firstly*, the police immediately rush to arrest all the people referred in the FIR.

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<sup>20</sup> Upto 14 Year: Males-1640, Females- 1490; Upto 15-29 Year- Males- 26,387, Females- 21,238; Upto 30-44 Year- Males-30,444, Females-14,402; Upto 45-59 Year- Males-20,768, Females-7,121; Upto 60 and above- Males-7,941, Females- 3,168

<sup>21</sup> National Crime Records Bureau, Report on Accidental Deaths and Suicides in India (Ministry of Home Affairs, 2010)

<sup>22</sup> Hereinafter to be referred as code

<sup>23</sup> Pillai, Supra note 113

<sup>24</sup> "1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person :- (a) who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or (b) who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or (c) who has been proclaimed as an offender either under this Code or by order of the State Government; or (d) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or (e) who obstructs a police officer while in the execution of his duty, or who has

<sup>25</sup> Pillai, Supra note 113

*Secondly*, in many cases people have been put behind bars with no justification and investigation. *Thirdly*, the police have approached the problem in an unprofessional and insensitive manner causing extreme stress and harassment to people who have been falsely framed under the provision of 498A.

The observations and recommendations made by the Judiciary, Law Commission and other Committees on the above mentioned Problem :-

a) The Judicial Approach

The Judicial Approach towards the problem of the said section being misused has been significant. Recently in one of the Landmark cases of *Preeti Gupta v. State of Jharkhand*<sup>26</sup>, The Hon'ble Supreme Court of India observed that, a serious relook in to the provision is warranted by the law makers. The court also stated that there is no doubt that in many of the complaints filed under the section exaggerated versions of the incident are reflected. In another landmark judgement of *Sushil Kumar v. Union of India*<sup>27</sup>, the court observed that most of the complaints filed under the section 498A is done with a dishonest intention and for seeking vengeance. Hence, it gets important for the legislature to find out a way to curb the frivolous complaints and if the same is not done then a new 'legal terrorism' may be unleashed.

The judgment given by the Hon'ble Delhi High Court in the case of *Chandrabhan v. State*<sup>28</sup>, the court gave extensive guidelines to the police authorities, whereby the court observed that, Firstly, FIR should not be recorded in routine manner, Secondly, Every effort should be made to first carefully examine the complaint then the FIR must be registered, Thirdly, Before registering FIR all necessary measures should be taken to settle the matter through conciliation, Fourthly, Arrest must take place after due investigation of the matter and lastly, no arrest to take place without the approval of DCP.

b) Justice Malimath Committee Report

The Report on reforms on the Criminal Justice System headed by Justice Malimath suggested that the offence under the law be made bailable and compoundable. The Report also stated that the

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<sup>26</sup> AIR 2010 SC 3363

<sup>27</sup> 2005 6 SCC 281

<sup>28</sup> Bail Application No.1627/2008, order dated 4.8.2008

harsh law rather than helping victims have become a source of harassment and blackmailing the husbands and others. This weapon is used by the wife to keep her husband and his family at her mercy. Moreover, when a direct arrest is made on the complaint of the complainant then reconciliation between the parties become impossible. Hence, it is necessary that all the effort of the police must be concentrated towards making the parties arrive at conciliation.<sup>29</sup>

c) Parliamentary Standing Committee 111<sup>th</sup> Report on Criminal Amendment Bill

The 111<sup>th</sup> Report submitted by the Parliamentary Standing Committee suggested that though the offence under 498A should continue to be non bailable and cognisable with a strong check that the same is not misused. But the Committee also went on to suggest that in case if the misuse of the law remains rampant, then there would be no option but to make the offence under the said section bailable.<sup>30</sup>

Hence, it is evident from the reports of different Committee that the misuse of section 498A is rampant and the government has not been able to keep a check on the same. It is therefore high time for the legislature to reconsider, review and redress the pangs and helplessness of the husband and his oppressed family who under the law must also be entitled to the same protection and right to survive as given to the other citizens under the law.<sup>31</sup>

### International Perspective

The problem of domestic violence as a violation of basic human right, unlike India where the same is treated as a gender specific offence, wherein the victim can only be the female. All the other countries afford protection from violence to all its citizens without any discrimination made on the basis of gender. It is high time that, the Indian Law makers also realise that the said offence is a violation of human right and anyone who is living in a domestic relationship can be subjected to any form of cruelty.

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<sup>29</sup> Government of India, Report: Committee on Reforms of Criminal Justice System (Ministry of Home Affairs, 2003).

<sup>30</sup> The Parliamentary Standing Committee on Home Affairs, 111<sup>th</sup> Report on the Criminal Law (Amendment) Bill, 2003.

<sup>31</sup> Rameshwar Balakrishna Pandit, "Wife's Cruelties and her Right to Maintenance", *Cri.L.J.* 159 (1995)

In United Kingdom The said Act applies to England, Wales and Ireland. In this jurisdiction as well the offence of domestic violence is gender neutral as the act uses words such as 'Person' and 'Vulnerable Adult'.<sup>32</sup> The Act also uses alphabets such as 'D' and 'V' for vulnerable adult to denote that the protection is given to all without any discrimination. The Act covers Physical injury, Harassment, Assault<sup>33</sup>, Molestation and Homicide<sup>34</sup> under the umbrella of domestic violence.

And, in America, domestic violence is governed by the 'Violence against Women Act, 2005'. Though, from name one will prima facie believe that the protection is afforded to women only. But the Act extends its protection to men as well through the principle of 'Non Exclusivity'.<sup>35</sup> The Acts covers domestic violence, Dating violence, Sexual Assault and Stalking as an offence under the Act.

### **The Justice Verma Committee: Limitations**

The Justice Verma Committee Report was submitted in the wake of gruesome gang rape of a Delhi based physiotherapist trainee girl on night of December 16, 2012.

This Act of brutality, generated wide spread protest throughout the country with all the youngsters and women rights groups participating, for a change in the present law on protection of women from violence. This wide spread protest compelled the Government to take strict actions on the issue violence against the women. Consequently, on December 23, 2012, Justice Verma Committee was formed, which was headed by former Chief Justice of India Justice Verma, Former Judge of the High Court, Justice Leila Seth and Mr. Subramanian, the former Solicitor General of India. The main suggestion of the committee included widening of the definition of present offences under Indian Penal Code coupled with the enhancement of punishment for all the crimes against women in Indian Society.

Though the report has been submitted with a bid to end the crime against the women in the Indian society, but a closer look at the report reveals that it was just a mere eye wash on the part of the Government. *Firstly*, that the report was developed at a time when there were heated protest going on in the country for protection of

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<sup>32</sup> Section 5, Domestic Violence, Crime and Victims Act 2004

<sup>33</sup> Section 10, Ibid

<sup>34</sup> Section 9, Ibid

<sup>35</sup> Sec.(3)(b)(8), Violence Against Women Act, 2005

women.<sup>36</sup> Hence no provision was inserted for the protection of men in the Indian Society. *Secondly*, the main recommendations made by the Committee were to increase the punishment for every offence against women. This shows that the present report was formulated under pressure by the former Hon'ble Chief Justice of India and there was a need for effective implementation and not enhancing the punishments. *Thirdly*, nowhere has the committee recommended to make laws gender neutral i.e. affording equal protection to men. *Fourthly*, the Committee did not recommend any solution to the problem of rampant misuse of these laws and how can the laws be implemented more effectively.

The consequences of the Report were that, the Ordinance included mixed responses from the Justice Verma Committee Report and the Criminal Amendment Bill, 2012. Though the provision of 'Sexual Assault' is welcomed instead of 'rape', but certain provisions of the bill received huge criticism which included the punishment of death penalty in case the victim dies or is left in a vegetative case. Here it is important to point out that the Government has included this provision, after emotionally driven by people.

## Conclusion

Since ages, only the plight of Indian women has been discussed in all the scholarly writings. Most of them referred to the ill practices of medieval period like Sati, Jauhar, uneducated, child marriage, no widow remarriage etc. But all these writing have portrayed only one side of the coin.

In modern India, all the efforts have been made towards the welfare of women. These efforts were seen in the form of giving reservation to women, taking out educational policies such as the '*Ladali Yojana*', work incentives in the rural area etc. All this resulted in the rise of women in the post globalised India. The rise was so phenomenal that the Indian women were not only competing with Indian men but they were now a scale through which success was measured.

The Indian women are now slowly and gradually encroaching upon the male territory, whereby they are overcoming the traditional rule of male as the sole breadwinner of the family. The Indian Government is further taking incentives of issuing 'Ration Card' in the name of women which is a sign of making women the

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<sup>36</sup> Sandeep Joshi, "Verma Panel says no to Death Penalty", *The Hindu*, January 23, 2013

head of the house hold.<sup>37</sup> In other words, we are witnessing a phase where the definition of masculinity has changed, whereby now it will be necessary to amend the word 'masculinity' to include the characteristics possessed by both men and women. The progress of men in the society has remained stagnant due to no positive policy of the government is framed to favour the men.

The laws as they exist today are more favourable towards women, though the time at which these laws were enacted by the parliamentarians, they were done with the utmost honest intention of safeguarding the rights of women as the violence against women in the Indian society was at its peak during 1970's and 1980's. But now a cursory view of major laws seems to suggest that the government have gone too far on the other extreme.

Moreover, with the presence of women at every section of the society it gets more important that they must not only be seen as victims, but as perpetrators too. Further, the Idea of empowering women through gender specific legislations is backfiring as the gender specific legislations like the Protection from Domestic Violence Act 2005, the anti-dowry legislation, etc are now being misused by manipulative and conniving women, leaving men without any recourse in either law or society. Here it is important that a reasonable balance is maintained between the two rules, So as to meet the ends of justice for both the victim and the perpetrator.

The aim of the laws formulated to benefit women was to achieve gender equality but instead, these laws are increasing the gender divide. The time is ripe enough for the government to realize that the present gender specific legislations are inadequate for getting gender parity in the society. The present laws are creating a situation, whereby the women in Indian society are rising and shining on one hand but on the other hand the rights of males are declining at a steady speed. Though the Judiciary has come to the aid of many men who have been falsely framed under pro women laws, but it is also important that the police exercises its power with due inquiry and diligence. Last but not least, it should be kept in mind that the rise of one gender must not be accompanied with fall of the other.



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<sup>37</sup> Malavika Vyawahare, "Are Men Useless? (Government Says Yes)", India Ink by the New York Times, March 9,2012