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Gender-Neutral laws - Is India ready?

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History of Patriarchy has shown us how humanity is male and man defines women not in themselves but as relative to him; she is not regarded as autonomous being and why the action of law is needed with immediate effects to protect marginalized genders of our society. This research paper aims at understanding the demand for gender-neutral laws, the reality of gender-specific laws, feminist legal theory, and examine the concept of equality. It also states how understanding gender itself is the basic block for lawmakers and judges. It states how internalizing patriarchal beliefs have set things to subjectivity. It examines why bad implementation of the law is the biggest hindrance that is stopping India to become gender neutral and how education plays a very big role in changing the world for marginalized genders, especially women. Authors have used data from various committees, statutes, judgements, and feminist literature to both support and criticize the demand for gender-neutral laws and the presence of gender-specific laws. Contrary to what has been always assumed how patriarchy only benefits men we have to find how it is damaging for them also and contradicting the general assumption of people that only women can be the victim we have shown how other genders are also exploited and needs the protection of the law.

Keywords: *patriarchy, feminist legal theory, lawmakers, gender-specific laws.*

INTRODUCTION

“Peace in patriarchy is a war against women.” – Maria Mies, Patriarchy and Accumulation on a World Scale: Women in the International Division of Labour.

Gender Neutral Laws which are mistakenly also associated with a feminist biggest trepidation are something that has a lot of confusion and debates surrounding it. Simply put, it means that all the laws and provisions of a country are equal for all genders and are not favouring any particular gender. “Under gender-neutral laws, all genders are equal in the eyes of law, either by explicitly stating every gender in law or by making the language of gender neutral.”¹ If we refer to the POSCO Act, 2012², a child has been defined as “any person below the age of eighteen years”. Here we can see that no gender is specified and using the word “any” denotes equality for all genders. “The term gender-neutral is the view where the policies, language and the other social institutions should avoid distinguishing roles according to people’s sex or gender.”

Thomas Jefferson said, “Nothing is so unequal as the equal treatment of unequal people.” The Justice Verma committee of 2013³ also specified that there must be the inclusion of the third gender along with men and women while drafting gender-neutral laws. In recent times, there has been quite a lot of debate as to whether India can go in this direction of gender neutrality when it comes to making laws or not. The much-discussed Rape laws along with offences like sexual harassment, voyeurism, stalking, and sexual assault in sections 375⁴, and 376⁵ of the Indian Penal Code are highly gender-specific and fail to recognize that it is not just women who need to be protected but also men and transgender too. “The POSCO Act⁶ was enacted in 2012 which is generally neutral and recognizes that boys can be victims of sexual violence as well. It defines a child as someone below the age of 18. The Indian Penal Code does not recognize that sexual assault can be

¹ ‘Gender-neutral-law’ (JV’s IAS, 19 January 2022) <<https://www.jatinverma.org/gender-neutral-laws#:~:text=WHAT%20ARE%20GENDER%20NEUTRAL%20LAWS,language%20of%20law%20gender%20neutral>> accessed 07 July 2022

² Protection of Children from Sexual Offences Act, 2012

³ ‘Justice Verma Committee Report Summary’ (PRS Legislative Research) <<https://prsindia.org/policy/report-summaries/justice-verma-committee-report-summary#:~:text=Justice%20Verma%20Committee%20was%20constituted,report%20on%20January%202023%2C%202013>> accessed 07 July 2022

⁴ Indian Penal Code, 1960, s 375

⁵ Indian Penal Code, 1960, s 376

⁶ Protection of Children from Sexual Offences Act, 2012

*committed on boys.*⁷Moreover, a 2007 study by the women and child development ministry found that the statistics for children who reported abuse, 53% were boys and 47% were girls.

“Violence and violation are a part of daily life for an LGBTQ+ person. While the legal system is usually used against these communities, the laws need to evolve considering the fluidity of gender and how a wide variety of persons may exist who do not conform to the set gender structures,” said lawyer Saurabh Kirpal, a trustee of the Naz Foundation, a non-governmental organization (NGO) that works on HIV/AIDS and sexual health. *“The law is not only silent on this but also fails to acknowledge the existence of LGBTQ+ people.”*⁸

Section 114A⁹ of the Indian Evidence Act considers the testification of women supreme. Another gender-specific section in IPC is Section s 354¹⁰ which deals with outraging the modesty of women, there being no such section protecting the rights of men. As per section 498,¹¹ a man can be imprisoned for a term of three years along with a fine if his wife charges him and/or his family for an act of cruelty against her. However, there is no such penalty or punishment imposed by law if a woman does the same to her husband or his family. The Maintenance laws under section 125¹² of CrPC are also very gender-specific and impose the duty of family only on the male counterpart which goes against article 14¹³ of the Indian constitution.

Looking at all these provisions many are bound to say that this shield provided is exploited as it makes women perpetrators stronger in committing crimes and escaping them just in a matter of snap. To balance it out, *“The 172nd Law Commission Report recommended that the rape law must be gender-neutral, both the victim and the offender. The Justice Verma Committee Report recommended agender-neutral law for the victim but a gender-specific law for the offender. However, none of them was*

⁷ Geetika Mantri, ‘What is POSCO Act and how is it used?’ (*The News Minute*, 12 February 2021) <<https://www.thenewsminute.com/article/what-pocso-act-and-how-it-used-guide-143310>> accessed 07 July 2022

⁸ Avantika Mehta, ‘Why It Is Time For India To Consider Gender-Neutral Rape Laws’ (*Article14*, 7 September 2021) <<https://article-14.com/post/why-it-is-time-for-india-to-consider-gender-neutral-rape-laws-6136d766effef>> accessed 70 July 2022

⁹ Indian Evidence Act, 1872, s 114

¹⁰ Indian Penal Code, 1960, s 354

¹¹ Indian Penal Code, 1960, s 498

¹² Code of Criminal Procedure, 1973, s 125

¹³ Constitution of India, 1950, art14

incorporated into the law of the land."¹⁴ This rises a multi-dollar question as to why we are not able to apply gender-neutral laws and also whether there is any future for its application in India.

HISTORY OF GENDER-SPECIFIC LAWS

If we start tracing the history of Gender and law together we might get a clearer picture of how and why we have gender-specific laws in our country in the first place. From ancient times women were considered dependent members of society and didn't have an independent identity. Every aspect of society was controlled by men so was law and lawmakers were biased towards men, even if they didn't they were unable to completely understand women's position in society and make laws that would completely favour them because no female representation was there to make a decision for them. History shows that men have been given dominant positions and women subordinate, which is still prevailing today.

Pre-19th century women did not enjoy many legal rights. They could not vote, be educated, sue or be sued, have rights in the property, etc. Around the fifteenth and eighteenth-century women were also a victim of horrific acts like Sati and Jauhar. So, we understand that gender-specific laws would be the need of the hour then. During the 19th Century, however, things were remodeled and women used law visionary and brought about changes. Women understood the need for bringing alterations to the law. *"The "golden period" of a woman's status was during the Indus civilization. The matriarchal society transformed into a male-dominated system after the Aryans came to India. The third and final declination happened during the Mogul times. It was not until the 19th century when reforms began to take place opposing the practice of sati, purdah, and child marriage."*¹⁵ During this time women have proactively worked to alter and change gender realities. We can see the emergence of women in various areas during this time only.

¹⁴ Shweta Kabra, 'Gender Neutral Laws- How Needful in India?' (*Manupatra*) (13)

<<http://docs.manupatra.in/newsline/articles/Upload/3FE150D0-E784-49BD-8328-4134C0E87955.pdf>> accessed 07 July 2022

¹⁵ Nidhi Shrivastava, 'The Progress of Indian Women from 1900s to Present' (*Uconn Library*, 27 July 2009)

<https://opencommons.uconn.edu/srhonors_theses/76/?utm_source=opencommons.uconn.edu%2Fsrhonors_theses%2F76&utm_medium=PDF&utm_campaign=PDFCoverPages> accessed 07 July 2022

Fast forward to the 21st century, women can be seen excelling in almost all fields. Activists made sure to get the law altered in the favour of women. This can be understood with the quite infamous Mathura rape case¹⁶. It is a leading case in the women's legal rights movement. In this case, a girl named Mathura was raped by three policemen but the supreme court held that the accused was innocent cause she had no signs of resistance on her body and also failed the highly abhor “two-finger test”. This led to resentment in society and a few law teachers, then moved to the then CJI to criticize the case. This case led to a rise in demand for shifting the burden of proof of consent to the accused. The Criminal Law Amendment Act 1983 (No. 43) made a statutory provision in the face of Section 114 (A) of the Evidence Act¹⁷ made 25 December 1983, which states that if the victim says that she did not consent to the sexual intercourse, the Court shall presume that she did not consent as a rebuttable presumption. Also, the prior sexual history of the victim along with the weird and impractical two-finger test checking the virginity of the victim was said to be irrelevant to the decisions in rape cases. Few other demands that were held were not publishing the name of the victim in the media and also holding in-camera proceedings for rape cases.

Since then, it was discovered that in a country like ours, the significance and need for gender-specific laws must be acknowledged and highlighted because they help create a safer place for women and help bring about equality, by coming to the aid of a very disadvantaged fraction of the society. Women have worked a lot for their rights and identity. They have come a long way but still, it is not the end of the journey. Many female activists have even dedicated their whole lives to the upliftment of women's rights and many have lost their lives too. Hundreds of feminist movements have brought about a lot of changes in the law of the land and this is the reason why we have few gender-specific laws in the country. These laws were made to reduce the suppression done towards the female gender and to uplift them.

¹⁶ *Tuka Ram And Anr v State Of Maharashtra* (1979), AIR 185

¹⁷ *Ibid*

UNDERSTANDING THE CONCEPT OF EQUALITY

Equality is a very complex idea of human rights and their places in society. Everyone's physique, intelligence, and psychological characteristics are different from one another, as much as everyone is different. Although people can be equal in some aspects but not in all, so demanding equality in every aspect is catastrophic. The only equality that a state could and should provide is equality of opportunity. The Supreme Court held that gender equality includes the right to work with dignity and protection from sexual offences, which is a recognized basic human right. The Supreme Court noted that there was a global acceptance by International Conventions of the common minimum requirements of this right. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires all States who are parties thereto to take appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular, The right to work as an inalienable right of all human the Supreme Court held that "gender equality" includes protection from sexual harassment and the right to work with dignity, which is a universally recognized basic human right.¹⁸

GENDER AND LAW

To create laws regarding specific gender one should understand gender itself. Still, a debatable topic to come to form any concrete conclusion, but as defined by many theorists and scholars gender is a social, psychological, and cultural characteristic present in the human mind. Sex is on another hand only the biological aspect of the human body. As defined above gender is the identity which also depends on social factors, it changes accordingly. So, lawmakers should make laws keeping in mind the constructionist nature and gender. So that law should be relevant to its constantly changing nature. Instead of this what law does is objectifies gender and assumes things regarding it, which is a unitary kind of explanation of gender and creates laws on that presumption.

¹⁸ *Arati Durgaram Gavandi v Managing Director* (2008) Writ Petition No. 8826/2004

FEMINIST LEGAL THEORY

Feminism states the idea that men and women should have equal rights in the economy, politics, and society. Feminism believes in equality but should not compromise its meaning and must be followed in its material form. The feminist legal theory argues that law has played an important factor in the subordination of women in society. More specifically, he states that all legislators in history have been men, which has fostered a patriarchal society and further subjugation of women. Even men in positions of power now made decisions about what they understood to benefit women, but “I will never be in a man's place; a man will never be in mine. Whatever the possible identifications, one never exactly takes the place of the other – they are irreducible to one another.” as quoted by Luce Irigaray, she fully states that women also need to be empowered to make decisions for their community.

“Because the world was made by men, who for that reason have greater shares of power and privilege.” These words quoted by Luce Irigaray introduce us to the concept of cultural feminism. Also known as difference or special treatment theory, cultural feminism posits the idea that men's and women's perceptions, situations, and experiences are different. For example, the way women perceive rape and sexual harassment are different from men because of the culture and different values in which they were born and raised. Differences between the sexes, whether rooted in culture or biology, have led cultural feminists to argue that significant differences between men and women should be legally recognized where they disadvantage one sex. In recent years, many laws have been introduced for the rights and protection of women based on these differences.

Dominance theory, which focuses on the power differential between the sexes, posits that the inequalities that women experience as gender discrimination in the economic, political, and family arenas are the result of patterns of male dominance. This theory states that men are privileged and women are subordinate, and this privileging receives support from most social institutions as well as a complex system of cultural beliefs. The law is complicit with other social institutions in creating women as sexual objects and inferior, dependent beings. Socialist feminist theory points out that liberation can only be achieved when both economic inequality

and cultural sources of oppression are eliminated. She argues that in addition to cultural oppression, capitalism creates an unequal balance of wealth that hinders women's progress because they are economically dependent on their male counterparts, be it their husbands, brothers or fathers, and this leads to their oppression and suppression.

GENDER-SPECIFIC LAWS: NECESSITY

If one thinks as to why we essentially need these gender-specific laws in our country, they are reminded of horrific cases such as the infamous Nirbhaya case of December 2012. The woman, a paramedical student, was attacked while going home after watching a movie with her friend. She was repeatedly raped, tortured brutally, and thrown off the bus along with her friend. She died of her injuries on December 29, 2012, in a hospital in Singapore, where she was airlifted.

It is highly unfortunate but true that despite so many legal reforms and movements, women still are considered one of the most vulnerable sections of society. Having every law as a gender-neutral law would only worsen their conditions.¹⁹ A total of 1,548,548 cases were reported of cruelty by husbands or their relatives in India from 2001 to 2018, with 554,481 (35.8%) between 2014 and 2018. The reported rate of this crime in India was 18.5 in 2001 and 28.3 in 2018 per 1,00,000 women aged 15–49 years, marking a significant increase of 53% over this period.”²⁰ With data like these, one can only think of gender equality as a distant dream, and the cherry on the top of this situation would be implying all new gender-neutral laws.

Moreover, if we assume for a while that India does have gender-neutral laws in all aspects, in such a scenario it will be highly problematic for the society we live in. Men accusing women of sexual offences will lead to a lot of undertrial women prisoners. They will not have financial support to fight litigation and other resources too for fighting for their justice. It will be supremely chaotic. The majority of the Female population in India has still not reached the level

¹⁹ '2012 Delhi Gang Rape Case: What Happened on 12 December' (*Hindustan Times*, 10 July 2022) <<https://www.hindustantimes.com/india-news/delhi-2012-gang-rape-case-what-happened-on-december-16/story-GboszJckGgslhWHpRcci4K.html>> accessed 07 July 2022

²⁰ Anuradha Mascarenhas, 'Domestic violence cases in India increased 53% between 2001 and 2018: Study' (*The Indian Express*, 29 April 2022) <<https://indianexpress.com/article/cities/pune/domestic-violence-cases-in-india-increased-53-between-2001-and-2018-study-7893930/>> accessed 07 July 2022

where we can say that they need no dependence on others to fight for themselves. They might feel stuck and not know what to do in such scenarios. Also, if women can file false cases against men, then there is no shying away from the fact, that, men can also file false cases against women. All this will just result in a vicious cycle of not landing on a concrete solution to the bigger problem of recognition of Men's rights.

GENDER NEUTRALITY - WHAT'S HOLDING IT BACK

As great as it sounds, Gender neutrality in the Indian context cannot be brought fully incorporated. There are a lot of challenges that do come up if we think of such a scenario. The Supreme Court also dismissed a PIL for making laws pertaining to rape, sexual harassment, stalking, voyeurism, sexual assault, etc gender-neutral and called it an "imaginative petition" for today's scenario. It is important to look into factors that are actually holding back India to bring in gender-neutral laws.

[A] WOMEN ARE THE MOST VULNERABLE

In India, it is highly unfortunate but also true that women are considered the most vulnerable section. Women in India are subject to discrimination, crimes, torture, violence, etc at various places. We are not declining the fact that men and transgenders do face discrimination and crimes against them, but the statistics show that it is highly towards the female. It becomes really important to protect their rights and, in this journey, even if they require specific laws favouring them, then it should be allowed.

[B] INDIA AND ITS PATRIARCHY GOES HAND IN HAND

India has always been a Male-dominated nation and people do tend to have a highly patriarchal approach in society. Most men do have more power politically, economically, physically, etc and some do misuse their powers to commit acts of violence, rape, stalking, voyeurism, etc on women. There are also instances of hate and lust of Men towards certain females which lead them to commit crimes against them. So, we cannot just assume that now is the time when

women are not vulnerable and blindly put forward gender-neutral laws just on the ground of it getting misused by some females.

[C] COUNTER CASES ON WOMEN

If we do apply gender-neutral laws in place and men start reporting cases of abuse by women or by men, then we cannot run away from the possibility that a lot of false cases will also come up against women. We will have a lot of undertrial women prisoners who would either not have money to fight their case or not have support from family and kin under such scenarios.

[D] INDIA'S SOCIAL REALITY IS IGNORED

In India, horrific incidents such as the Nirbhaya Delhi gang rape still haunt society today and these are not old too. Women still don't feel safe going out at night alone, or they are judged on their previous sexual activities or how they dress or behave in a particular setting. There has been no case about this and there cannot be gender-neutral laws without any strong empirical evidence.

[E] MEN AND WOMEN FACE SEXUAL ASSAULT DIFFERENTLY

Women and Men don't face sexual assault in the same way. There are a lot of stigmas attached to women in particular and it becomes extremely difficult for them to even file cases against the wrongdoers because a lot of times, they are not only prejudiced and their fault is tried to be obtained. She must be wearing something revealing, she must have been out at the wrong hours of the evening, she must be a slut, she might have been given her consent, why she is not emotional, etc. are the various premises that are formed when a woman reaches to some authority to file a case. This way the victim is only blamed. To make matters worse the highly inappropriate two-finger test of the victim is also taken at times. All this directly affects the psychological state of women while dealing with sexual offences.

[F] LACK OF EMPIRICAL EVIDENCE

There is not even a single case of female-to-male rape in India. No man who is not a minor would come up to the police saying that he got sexually assaulted by a female. He would be made fun of. Also, there is already a provision under the POSCO act 2013 that protects men below 18 from sexual offences.

LIMITS OF LAW

Patriarchy might be dangerous to society but internalising patriarchy sets things to subjectivity. Internalised Patriarchy states the idea that living in a such powerfully oppressed system can often lead to the very people who are oppressed, internalising patriarchal beliefs themselves. Does this convey the idea that when subordination and injustice against women perpetuate from within her family how she can be free from societal subordination and injustice by legal institutions? She thinks it is normal because she hasn't experienced the liberated world where men and women are not considered unequal and the world doesn't perceive her as an object of sexual desire anymore.

In an interview with Jeffrey Mishlove on "Thinking Aloud," Lerner described her work on the subject of patriarchy:

“Other groups that were subordinated in history – peasants, slaves, colonials, any kind of group, ethnic minorities – all of those groups knew very quickly that they were subordinated, and they developed theories about their liberation, about their rights as human beings, about what kind of struggle to conduct in order to emancipate themselves. But women did not, and so that was the question that I really wanted to explore. And in order to understand it, I had to understand really whether patriarchy was, as most of us have been taught, a natural, almost God-given condition, or whether it was a human invention coming out of a specific historic period. Well, in Creation of Patriarchy I think I show that it was indeed a human invention; it was created by human beings, and it was created by men and women, at a certain given point in the historical development of the human race. It was probably appropriate as a solution for the problems of that time, which was the Bronze Age, but it's no longer appropriate, all right? And the reason we find it so hard, and we

have found it so hard, to understand it and to combat it, is that it was institutionalized before Western civilization really, as we know it, was, so to speak, invented, and the process of creating patriarchy was really well completed by the time that the idea systems of Western civilization were formed.”²¹

Education can play a greater role in achieving equality for women. Education is the only way that can give them the idea of total liberty and the government here is unable to provide it. Most of the women who believe they are subordinate and have to play a side role in man’s life belong to lower and lower middle classes and are uneducated. The Justice Verma Committee has recommended that children’s experiences should not be gendered. It has been recommended that sexuality education should be imparted to children. Adult literacy programs are necessary for gender empowerment.²² We fear that if gender-neutral laws will be there women will be more vulnerable, but why? Because apart from lawmakers, executors of these laws are incompetent. What if counter cases are made, what if women will be suppressed in society, anyhow law can’t change contemporary society still. What it can do best is function at its best which will only happen if authorities are competent and hardworking enough.

The Justice Verma Committee has recommended certain steps to reform the police. These include the establishment of State Security Commissions to ensure that state governments do not exercise influence on the state police. Such Commissions should be headed by the Chief Minister or the Home Minister of the state. The Commission would lay down broad policy guidelines so that the Police act according to the law. A Police Establishment Board should be established to decide all transfers, postings, and promotions of officers. Director General of Police and Inspector General of Police should have a minimum tenure of 2 years.²³

²¹ Linda Napikoski, ‘Patriarchal Society According to Feminism’ (*ThoughtCo*, 24 January 2020) <<https://www.thoughtco.com/patriarchal-society-feminism-definition-3528978>> accessed 07 July 2022

²² ‘Report Summary: Report of the Committee on Amendments to Criminal Law, 2013’ (*PRS Legislative Research*, 25 January 2013) <https://prsindia.org/files/policy/policy_committee_reports/1359132636--Justice%20Verma%20Committee%20Report%20Summary_0.pdf> accessed 07 July 2022

²³ *Ibid*

UTILITARIANISM

We acknowledge the fact that crimes against women are high and crimes by women are also on an increase. In such a scenario, one tends to think about whether it is the right time to bring in gender-neutral laws in the country. Also, having done so, would it worsen the already vulnerable condition of women? One applies the Rule of Necessity here at times saying that to avoid greater harm, it is better to do lesser harm. Thus, at the cost of some Men and transgender justice, is it okay to protect and uplift the much more vulnerable women's rights? There is proper discrimination based on gender without any practical classification under Section 125 of the CrPC, specifically with a view to the presumption that a husband, father, or son is considered to have the ability to earn and maintain his dependents if he is healthy and strong.

“Seventy-five percent of cases are withdrawn because the women use the charges to extort money,” said Wasif Ali from the Save Family Foundation, a men’s rights group that offers counselling and legal assistance to “distressed men” accused under this law and others. Even if the 15 percent were convicted, many would-be innocent. The women’s privilege needs to be modified to ensure that men are protected too. The need of the hour is a system where women are protected and men are not harassed with false charges. If using the rights given by the Indian constitution for bullying someone and still being safe is a women’s right then I don’t think we as a woman deserve these laws. Women’s rights are given for protection and these days women are using laws as a weapon instead of shields and making the victim sound like their culprit.²⁴

ANALYSIS AND RECOMMENDATIONS

It won’t be possible to have gender-neutral laws in a country like ours at this point where women are the most vulnerable today population. Going fully gender-neutral would only do more harm than good but other alternatives can be found to solve the “larger issue” and not over complicating the already complicated topic.

²⁴ Trishila Dwivedi, ‘Gender biased laws: Weapon or shield?’ (*The Times of India*, 21 July 2021) <<https://timesofindia.indiatimes.com/readersblog/hail-to-feminism/gender-biased-laws-weapon-or-shield-35006/>> accessed 07 July 2022

To understand the context of the ‘larger issue’ being talked about above, one needs to look deep into “Gender Neutrality”. The term is quite enigmatic and it can have different dimensions associated with it. These dimensions were given by Arvind Narrain in 2013. It can be understood with respect to the Victim and the Perpetrator and Neutrality in custodial, communal, war, and conflict situations²⁵. In India, only women are seen as the “VICTIM” of offences such as rape, sexual assault, stalking, voyeurism, etc, ignoring the fact that men can be a victim too of such offences. This is the birthchild of the patriarchal mindset and male dominance that India is subjected to. Apart from this bodies of only two communities are recognized, totally ignoring the body of the transgender communities which include hijras, kothis & trans-sexuals.

"He was an animal. He raped me that night -- I thought I would just have to dance. Daina Dias was a teenager working as a bar dancer in Goa, India, when her manager told her to go to a man's house to entertain him. Dias said she didn't bother reporting the attack to police -- as a transgender woman, officers wouldn't have taken her seriously anyway, she said.²⁶ Dias could not have existing laws at her disposal because although she is a victim, she is not a woman and the law only recognises “women as victims. Another dimension is concerning that of the “PERPETRATOR”. Whether women can be perpetrators of sexual offences is a question on which people have varied opinions. Some say it is a biological impossibility as quoted by Austin Brownmiller,²⁷ and some people do believe in female on male rape and/or female on female rape. In such a scenario one seems to have no straight-jacket solution to cater to all the problems and needs of society while also protecting the rights of those who are vulnerable.

“Perera (2013) in her article in The Firstpost while expressing concern for male and transgender sexual violence writes that a gender-neutral law is not an anti-women law.”²⁸ A woman faces a lot of discrimination daily in the family, workplace, etc. It would be wrong for us to just assume that we are living in a “utopian” nation where women are equal to that men and experience the same

²⁵ Shweta Kabra (n 14)

²⁶ Esha Mitra, ‘India's rape laws don't cover transgender people. They say it's putting them at risk’ (CNN, 9 December 2020) <<https://edition.cnn.com/2020/12/08/india/india-transgender-rape-laws-intl-hnk-dst/index.html>> accessed 7 July 2022

²⁷ Shweta Kabra (n 14)

²⁸ *Ibid*

life as men. Although we all badly want this to happen we have to accept the harsh reality of today's India and then frame or amend laws accordingly. Just because a certain nation goes with one ideology, we can't just blindly follow it, it might suit their demography, society, and people but not necessarily ours.

We also see that although activists got to reform the existing laws seeing the plight of women, leading to increased punishments and stringent laws, it did not give back a response as it should have given. If we do the same kind of thing to prevent Male victims, then there is a high possibility that although the laws do become gender neutral, there won't be much difference in the men's sexual assault scenario. Thereby, it is better to look into this situation by recognising the Men being the victim to ideology and incorporating it into the law of the nation. To have this problem solved, revising the laws and making them gender-inclusive for victims can be one such way. Having a tag that INDIA has only gender-neutral laws won't do any good. Recognising that MEN CAN BE VICTIMS TOO and creating awareness regarding it would help along with having much more inclusion of transgenders as victims are needed.

"Adopt a law that states that the perpetrator is gender-specific as before but the victim can be gender-neutral."

CONCLUSION

Gender equality implies that women and men, and girls and boys, enjoy the same rights, resources, opportunities, and protections. It does not require that girls and boys, or women and men, be the same, or that they are treated exactly alike.²⁹ In a country like ours, the significance and need for gender-specific laws must be acknowledged and highlighted because they help create a safer place for women and help bring about equality, by coming to the aid of a very disadvantaged fraction of the society.³⁰ Women have fought for their rights and identity for decades; they are yet to reach the end of this struggle or maybe there is no end to it. However,

²⁹ Joy Chowdhary, 'Women Empowerment and Gender Equality: Bangladesh' (*Medium*, 1 July 2020) <<https://joychy35.medium.com/women-empowerment-and-gender-equality-bangladesh-ca2e11384104>> accessed 7 July 2022

³⁰ Isha Prakash, 'Gender-Specific Laws: What the Nation Wants v What The Nation Needs', (*Feminism India*, 6 November 2018) <<https://feminisminindia.com/2018/11/06/gender-specific-laws-india/>> accessed 7 July 2022

their attempts have not been futile as there has been a huge change in the position of women now to what it was then. Many female activists have dedicated their whole lives to bringing these changes and some have also lost their lives in the process. Feminism is not just the struggle to end male chauvinism but it is a commitment to eradicate the ideology of dominance in society and reorganizing it so that the self-development of people can take precedence over imperialism, economic expansion, and material desire. The Legal System in India plays an important role in feminism. Thousands of feminist movements have led to changes and amendments in laws and new laws have been introduced to provide security to women against the injustice faced by them by society. So what we can do is to make the victim part of the law as gender inclusive and create awareness regarding the topic.