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## GENDER DISCRIMINATION LAWS AND THEIR EFFECTIVENESS

### Introduction

Indian school of Jurisprudence nurtures a misplaced sense of equality. Instead of establishing egalitarian society by strengthening weaker domains, it tends to denigrate and drag down the zealous domain to showcase equality, be it Reservation, Minority Rights or Gender Equality.

In 2030, we envision a world devoid of Gender Norms and Gender Disparities.

### History

Article 14 of our Indian Constitution talks about ‘right to equality’ where everyone is treated equal and same, irrespective of their inequalities. Therefore, it is of very much importance to grant equal justice to everyone, be it a man or a woman or a transgender. But unfortunately, in the past few decades the definition of the term Gender Equality has been narrowed down to Women Empowerment alone.

Gender discrimination means treating someone unequally based on their Gender which is manifested in restricting or excluding them from exercising or enjoying their full and equal human rights by creating barriers for them in securing equal access to jobs, education, healthcare, pay and much more, Gender inequality has its roots in socio-cultural values and beliefs wherein one Gender is supposed to be routinely privileged and is prioritized over another thus causing discrimination to the other Gender.

There is no doubt that Women and girls face various forms of vulnerability throughout their life cycle especially on rural front. Discrimination is meted out to them before or after birth

and they are subjected to continuous abuse, violence or harassment and neglect. This social prejudicial behaviour has deprived them of having just access to resources resulting in their exploitation whether economic, political, social or religious.

### Legislative and Government Welfare measures

In order to overcome this evil and to support the cause of Gender Parity, various Legislations and Government Welfare schemes have been promulgated from time to time, notably a few of them are Protection of Women from Domestic Violence Act, 2005, Dowry Prohibition Act, 1961, Prohibition of Child Marriage Act, 2006, Equal Remuneration Act, 1976, Maternity Benefit Act, 1961, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Nari Shakti Vandan Adhiniyam (Women's Reservation Act) 2023, National Policy for Empowerment of Women, National Mission for Empowerment of Women (NMEW), Gender Budgeting, Beti Bachao Beti Padhao Yojana (BBBP), One Stop Centre (OSC), Nirbhaya Fund, Support to Training and Employment Programme for Women (STEP), Mahila E-Haat, etc.

### Critical Analysis

If we examine each subject's legal provision one at a time, we will discover that though the Legal system undoubtedly made an effort to provide women with justice, the results achieved fall short of expectations and the condition of women continued to be deplorable especially in rural areas for the simple reason that gender equality cannot be achieved through Legislation alone but it is a complex challenge that involves a comprehensive multidimensional, multipronged strategy covering various demographic, socio-cultural, economic, political, ethnic and religious factors.

Some of the legislations we started with, were fairly, perhaps fully legitimate for the times, but at the dawn of each passing day have gone overboard to such an extent that our Penal Rules have now become Gender discriminatory and have put men in such gullible a position, that they are now being victimized by the so-intended women empowering legislations which is slowly transforming our society into a prejudiced and conservative state by approving every possible draconian law in the name of curbing crimes against women resulting in arbitrary arrests and incarceration of innocent citizens putting them in deplorable conditions.

The Indian Penal Code can truly be called as Gender discriminatory because of a number of sections biased against men. It promotes the idea that criminals are born only in men while in case of female, only victims are born. It has been deeply entrenched in our minds that only men commit crimes. Regrettably, Women commit crime for the same reasons that men do. Crime has no gender and so should be our laws which should not and ought not distinguish between criminals on the basis of gender. This mindset that only male is the perpetrator of the crime not only creates a gender divide in the society, but also provides a perfect masquerade to the criminal tendencies of the other gender.

### Paradigm

Some of the Laws which lie heavily in favour of Women are Section 304b (Dowry Death), Section 498a (Cruelty Against Women), Section 375 (Rape), Section 354 (Outraging the Modesty of a Woman) etc.

Let us analyse Section 304b (Dowry death) to buttress the point further. The term 'Dowry Death' encompasses all acts aiding or abetting a bride's suicide or killing of a bride by her husband or in-laws for bringing insufficient Dowry. Although almost half of the cases turn out to be fabricated, however the legal and social implications associated with these charges are so draconian that return to normalcy seems like a distant dream to the family, despite proved innocent. As per National Crime Records Bureau statistics, in 2012 alone, nearly 200,000 people including 47,951 women were arrested on unestablished allegations of dowry offences. Surprisingly, only 15% of the accused were convicted.

Every year, a large number of married men end their lives succumbing to trauma caused by sheer verbal, emotional, economic and physical abuse inflicted by their wives and their ever-instigating family members. A Plethora of Judgements are available acknowledging that women are manipulating and abusing these provisions to harass their spouses and in-laws which has been referred to as "legal terrorism" by many eminent jurists.

Similarly, Section 354, deals with assault or criminal force with the intent to outrage a woman's modesty. However, there are cases where women despite being the perpetrator, go unprosecuted, because of gender specific laws. The situation has become so adverse that even in doubtful cases, man is always considered as a criminal and the balance of convenience always lies in favour of women. Social attitudes and gender biases have distorted collective consciousness of our society to such an extent that a man is always presumed guilty until proved

innocent while a woman is always presumed innocent till proven guilty by overwhelming evidence.

### Conclusion

Thus, it is of utmost importance that the legislature in India should make gender-neutral crimes and does not prescribe any Gender specific preference to exploitation. The yardstick should be to treat any crime as against humanity and whoever be the culprit must be punished.

In short, there is an imminent need of a GENDER-NEUTRAL society. It describes the idea that Legal and other social institutions should avoid distinguishing roles according to gender and start emphasizing on equal treatment to all genders without any discrimination, paving the way for establishing an egalitarian society with no Gender Bias!