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# **SHOULD GENDER NEUTRAL LAWS BE IMPLEMENTED**

AUTHORED BY: M. SRISHA & UME AYMAN

## **ABSTRACT:**

India is a secular country that has instilled liberty, democracy, and secularism in its people. Equality is among the most important topics on which India as a nation focuses. equality in regard to the law, everyone's rights, and obligations. There is no caste, gender, race, or creed discrimination. Gender neutrality refers to treating all genders equally and impartially. The current state of affairs is one of impartiality toward all genders; gender neutrality is not predicated on men and women. Treating the genders equally and impartially is the goal, not being gender sensitive or particular. In this article we will be discussing about why it's necessary to implement gender neutral laws and where drawbacks arise, how should they be taken care of. But it should be kept in mind that the gender neutrality would not mean that the law would be ignorant to any gender.

## **INTRODUCTION:**

The Indian Criminal Code defines gender as "men and women," or if a person is male or female. Gender is a word that denotes men and women. According to this theory, men and women have distinct human bodies with distinct mental and physical compositions that set them apart from one another. The Indian Constitution, specifically Article 14, guarantees equal treatment and protection under the law to all Indian citizens, including men and women. Religion, gender, caste, ethnicity, or place of birth are among the reasons on which the state thinks about outlawing discrimination. Any task that needs to be completed is divided or assigned based on a person's gender; for example, cooking is thought to be a woman's job, and working outside the home is thought to be a man's job. However, as society changes and things progress, people adopt new ideas and perspectives, such as gender neutrality.

Gender Neutrality is something which talks about that anything should not be considered or specified on the basis of gender but on the capability of the human being to be done like a woman can also be a business's women, a woman can be a President of a country and similarly a man can be a chef and can do other household a woman does. Gender Neutrality talks about how we treat

all the gender in a neutral and unbiased way. Gender neutrality is not based upon men and women, but the status quo is being unbiased towards any gender. Being gender specific or sensitive is not the intention but to treat the genders in a neutral and equal way.

When everyone is afforded equal opportunities, we say there is equality. It is not the way to promote the welfare of society to be gender sensitive or specialized. Only until everyone is given equal opportunities will the welfare of the society be achieved. A crime is a wrong that is committed against a person but has an impact on society as a whole because of the accused person's actions. Any criminal conduct that is committed against a person will result in justice for that particular criminal act. The crime committed against any individual based on their gender is the main topic of this research paper.

India is a secular nation that respects everyone equally, but it has committed various crimes, particularly sexual offences, and has not considered its neutrality when drafting laws. Instead, it has been more gender-sensitive or gender-specific. Women's laws are different from men's because women are more likely to be the victims of sexual offences, while men cannot confront or fall victim to such crimes, but in today's world men are in equal danger to be the victims of such offences where women were taken as the victim always.

Many discussions have been held regarding crimes against males, with the fact that it is extremely challenging for a guy to provide evidence of a sexual assault, rape, stalking, or domestic abuse. The inability of society's mental capacity to see above such mental stereotypes or extremes of gender to see beyond them makes it harder to prove crimes against males. The study will concentrate on the rules that need to be changed to adopt a gender-neutral perspective as opposed to a gender-specific one. Crime is a social phenomenon that can be committed against any person or animal, and the victim must receive justice from the community or legal system. The Criminal Procedure Code, 1973 defines a victim as any individual who has suffered any loss or injury as a result of the act or omission for which the accused person has been charged. The term "victim" also refers to the victim's guardian or legal heirs, meaning that anyone can be a victim of any injury; therefore, it is not acceptable to prosecute someone for being gender specific or sensitive in any way.

## **LITERATURE REVIEW**

**AUTHORED BY - APOORVA UPMANYU AND ANSHUL RANA SCHOOL OF LAW, THE NORTH CAP UNIVERSITY, GURUGRAM, HARYANA, INDIA. (2022)**

In their research paper they have stated that, Indian law should be changed to gender neutral. First, it must be recognized that gender neutrality would not mean that the law would be ignorant to any gender or that the difference would disappear, but rather that it would be more attentive to the requirements, functioning, and behaviour of all genders across spectrums and paradigms.

Second, the claim that the gender neutrality of rape and sexual abuse laws will allow males to abuse them by filing counter complaints, preventing women from reporting sexual crimes to the authorities more than before, is unfounded. The risk of legal misappropriation exists in every legislation, but this should not prevent the government from putting it into effect. They ought to advocate instead for a gradual approach to enacting gender-sensitive policies that get us closer to the equitable society envisioned in Article 14 of the constitution.

**AUTHOR SHWETA KABRA B.A.LL.B (HONS.) NATIONAL LAW UNIVERSITY, DELHI,**

The researcher has come to the conclusion that while sexual violence against males and transgender must be addressed, it must not create a detrimental environment for female victims for rape. We must strive to create an equal society and must move in the direction of achieving gender neutral laws. However, taking into account the situation and treatment of women in India at present, it would not be wise to drastically change the rape laws into gender neutral laws. We must adopt a step-by-step approach.

**ASHMEEN AGGARWAL ARMY INSTITUTE OF LAW, MOHALI (2008)**

This study looked at the need for gender-neutral legislation in India's criminal, family, and employment laws, among other areas. It has drawn attention to the persistent gender gaps, their effects on society, and the flaws of the current gender-specific laws. The study shows that rules that don't favour one gender over another are necessary to advance equality, dispel gender norms, and develop a more equitable and inclusive society.

Gender-neutral laws would guarantee that everyone, regardless of gender, would receive the same level of protection and punishment in cases of gender-based violence and sexual offences. Gender-neutral legislation will help create a more just legal system by getting rid of prejudices in legal definitions and penalties.

Gender-neutral laws in family law would acknowledge the equal rights and duties of both parties in marriage and divorce. They would deal with matters like alimony and maintenance, child custody and guardianship, inheritance, and succession while encouraging individual freedom, equitable resource allocation, and the welfare of the entire family.

Gender-neutral rules in the area of employment would deal with gender-based discrimination in the workplace, guarantee equal pay and opportunities, and encourage work-life balance. Gender-neutral laws would promote inclusive policies and a positive work environment, which would advance gender equality and increase organisational productivity.

**DEEKSHA ARORA RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PATIALA, INDIA (2021)**

Balance is the essence of nature. Everything around us is balanced. If, somehow, the balance is disturbed it automatically find its way back. Historically, women suffered for way too long and eventually they regained their lost position as a result of their constant battle against the patriarchy. In an attempt to protect women the lawmakers overlooked at the fact that once again the situations must change and the other genders might need the protection, hence, losing the balance once again. That time now arrives. Today, not only women but the men and trans people are also unsafe. It is also true that it is just the beginning of male exploitation and the plight of the transgender is not much attended. But the exploitation is exploitation. It is discriminatory to tune out the happenings with other genders and focus only on one. This results in gender injustice. Gender injustice, Gender stereotype, Gender prejudice and Gender specification, all these, lime lights the peculiar fact that single-gender, i.e. women, is being parted advantage and on the expenses of the others. Undoubtedly, even today the women in India are highly exposed to the risk but this reasoning is incompatible with the plain fact that it is the duty of the law to protect one and all.

**RESEARCH PROBLEM**

Article 14, guarantees equal treatment and protection under the law to all Indian citizens, including men and women, but there aren't enough gender-neutral laws when the world needs it the most now.

**METHODOLOGY**

The sources was collected through a review of existing literature, including academic journals, books, government publications, and legal documents related to Gender neutral laws. Secondly,

qualitative insights were derived from interviews on gender neutral laws should be implemented.

### **SCOPE AND LIMITATION**

This research paper concentrates only on the gender-neutral laws to be framed or amended for men and women.

### **HYPOTHESIS**

1. There is an urgent need of addressing sexual violence against males
2. Making the law completely gender neutral would harm the interests of the female rape victims. Therefore, a solution would be to make the law gender specific for the perpetrator and gender inclusive for the victim.

### **RESEARCH OBJECTIVE**

The aim of undertaking this study is to assess the need to reform the rape law in context of India from a gender specific to a gender neutral law.

### **RESEARCH QUESTION**

1. There will arise a lot of questions against the idea of framing gender equal laws for both men and women. What are the drawbacks and how can these be overcome?
2. In today's world it is a necessity to bring in gender neutral laws, why is there a need and what will happen if brought into action?
3. How will gender neutral laws impact the offence of rape and what will be its consequence?

## **CHAPTER TWO**

### **1. There will arise a lot of questions against the idea of framing gender equal laws for bothmen and women. What are the drawbacks and how can these be overcome?**

There are indeed challenges and potential drawbacks to framing gender equal laws for bothmen and women. Some of these drawbacks include:

- **Resistance from Traditionalists:** Traditional gender roles and stereotypes may lead to resistance against gender equal laws. Some people may believe that men and women have inherently different roles in society and should be treated differently under the law.
- **Misinterpretation of Equality:** There might be a misunderstanding of what gender equality means. Some may interpret it as advocating for identical treatment of men and women in all aspects, which may not always be practical or desirable.
- **Lack of Awareness and Education:** In some cases, there may be a lack of awareness or understanding about the importance of gender equality and its benefits for society as a whole.
- **Cultural and Social Norms:** Cultural and social norms can also present challenges to gender equality efforts. In some cultures, deeply ingrained beliefs about gender roles may hinder progress towards equal treatment under the law.

### **To overcome these drawbacks and challenges, several strategies can be employed:**

- **Education and Awareness Campaigns:** Increasing awareness about the importance of gender equality through education and public awareness campaigns can help address misconceptions and resistance to gender equal laws.
- **Engagement of Stakeholders:** Engaging stakeholders from diverse backgrounds, including policymakers, community leaders, and civil society organizations, can foster dialogue and collaboration in the development and implementation of gender equal laws.
- **Addressing Cultural and Social Norms:** Efforts to promote gender equality should take into account cultural and social norms, recognizing the importance of context-specific approaches and sensitivity to diverse cultural perspectives.
- **Legal Reform and Enforcement:** Strengthening legal frameworks to ensure equal rights and opportunities for men and women, along with effective enforcement mechanisms, is essential for advancing gender equality.
- **Promotion of Positive Role Models:** Highlighting positive role models who challenge

gender stereotypes and promote equality can inspire others and shift societal attitudes towards gender equality.

Overall, overcoming the drawbacks of framing gender equal laws requires a multi-faceted approach that addresses legal, social, cultural, and educational factors while promoting inclusivity and collaboration among stakeholders.

## **2. In today's world it is a necessity to bring in gender neutral laws, why is there a need and what will happen if brought into action?**

### **Bringing in gender-neutral laws is necessary in today's world for several reasons:**

- **Promoting Equality:** Gender-neutral laws ensure that all individuals, regardless of their gender identity, are treated equally under the law. This promotes fairness and justice in society.
- **Eliminating Discrimination:** Gender-neutral laws help eliminate discrimination based on gender. By removing gender-specific provisions or requirements, these laws ensure that everyone has the same rights and opportunities, regardless of their gender.
- **Reflecting Diversity:** Gender-neutral laws acknowledge and reflect the diversity of gender identities and expressions. They recognize that gender is not binary and that individuals may identify and express themselves in ways that do not conform to traditional male or female categories.
- **Addressing Stereotypes:** Gender-neutral laws challenge harmful gender stereotypes and norms by recognizing that individuals should not be restricted or limited by societal expectations based on their gender.
- **Supporting Inclusivity:** Gender-neutral laws create a more inclusive and supportive environment for all individuals, including those who may not conform to traditional gender roles or norms. This fosters a sense of belonging and acceptance in society.

### **If gender-neutral laws are brought into action, several positive outcomes can be expected:**

- **Enhanced Rights and Protections:** Gender-neutral laws would ensure that everyone enjoys the same rights and protections under the law, regardless of their gender identity or expression.
- **Reduced Discrimination:** By eliminating gender-specific provisions or requirements, gender-neutral laws would help reduce discrimination and inequality based on gender, promoting a more just and equitable society.
- **Increased Diversity and Inclusion:** Gender-neutral laws would signal a commitment to

recognizing and respecting the diversity of gender identities and expressions, fostering a more inclusive and accepting society for all individuals.

- **Positive Social Change:** The implementation of gender-neutral laws would contribute to positive social change by challenging gender stereotypes and norms, promoting equality, and advancing the rights of all individuals.

Overall, bringing in gender-neutral laws is essential for promoting equality, eliminating discrimination, and creating a more inclusive and just society where everyone can thrive regardless of their gender identity or expression.

### **3. How will gender neutral laws impact the offence of rape and what will be its consequence?**

**Gender-neutral rape laws can significantly impact the way sexual assault is addressed by the legal system. Here's a breakdown of the potential changes and consequences:**

- **Increased Equality:** These laws recognize that anyone can be a victim of sexual assault, regardless of gender identity. This ensures equal protection under the law for men, women, and transgender individuals.
- **Reduced Stigma:** By acknowledging male victims and female perpetrators, the law combats the stereotype that only women can be raped. This can encourage more men to come forward and report sexual assault, which is often underreported.
- **Broader Protection:** Gender-neutral laws encompass a wider range of sexual acts, not just penile-vaginal penetration. This ensures all forms of non-consensual sexual acts are recognized as crimes.
- **Clearer Definitions:** Rape definitions may need to be revised to be more inclusive of different genders and types of sexual assault. This can lead to clearer legal language for prosecution.
- **Shifting Focus:** The focus might shift from the victim's gender to the issue of consent itself. This can lead to a more objective approach to investigating and prosecuting these crimes.

### **CONCLUSION:**

The rise of gender-neutral laws in criminal justice, particularly concerning sexual assault and domestic violence, offers a path towards a more equitable legal framework. By focusing on the act itself rather than the gender identity of the perpetrator or victim, these laws promote equality and ensure equal protection under the law for all individuals. Additionally, they help reduce stigma

surrounding male victims of sexual assault, encouraging more accurate reporting and support systems. Moreover, gender-neutral laws broaden the scope of protection by encompassing a wider range of non-consensual sexual acts that traditional laws may overlook.

However, implementing gender-neutral laws requires careful consideration. Concerns include potential downplaying of power dynamics in sexual assault cases and the necessity for clear definitions within the law. Collaboration among legal experts, advocates, and survivor groups can address these concerns and ensure inclusivity and effectiveness in the legal framework.

Despite challenges, the benefits of gender-neutral laws in promoting equality, reducing stigma, and offering comprehensive protection for victims outweigh the drawbacks. This shift not only reflects the realities of sexual assault and domestic violence but also moves society closer to a legal system that safeguards all individuals, irrespective of gender identity. It signifies a crucial step towards creating a safer and more just society for everyone.

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