

GENDER INEQUALITY FROM A MAN'S PERSPECTIVE

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ABSTRACT

The whole purpose of writing this research paper is to throw some light on the inequalities faced by the men in India. In India, people have a mindset that men being the stronger sex, have always got what they wanted and they don't have to go through the hardships and face the problems of inequalities in different spheres as the concept of inequality is only associated with the weaker sex that is women. If somebody tells that a man has been harassed by a woman or her family, this is a very shocking and unacceptable information for that person because people can't accept the fact that men are also harassed and they also have to go through these kinds of problems.

Thus, this paper shows some facts which prove that men also face the problem of inequality and hope this paper changes the outlook of society towards men and their problems. Society needs to be a little sympathetic towards men. Some facts of the cases have been shown where it is proved that men have been harassed and women have misused some of their rights against men and some laws have also been quoted which shows some loopholes in the Indian legal system and how these are being used against men.

Society has to change its perception about men and work towards achieving gender equality in the country. In the end, as the constitution says, every man has the fundamental right to equality and to be treated as equal citizens of India.

INTRODUCTION

“Men are from Earth, women are from Earth. Deal with it.”

-George Carlin

What is gender equality and how to achieve it? This question is taking a toll on the government of India, especially in the 21st century, and on the law making authorities of India. Gender equality in India refers to health, education, economic and political equalities between men and women in India. Gender equality is a multifaceted issue that concerns men and women alike. Feminism and sexism are the words which directly relate to the concept of gender equality. Feminism is a belief that men and women should have equal rights and opportunities and sexism means an unfair treatment of people because of their sex. Now citizens of India have a major issue regarding their inferior treatment by the people because of their respective sexes. Some believe men are favored over women because of their sex and vice versa and they have now decided to take a step against this unfair treatment by people. More and more people are working in this area so that it becomes easy for them to live in an unequal society with equal rights and opportunities which is their fundamental right that is right to equality in articles 14, 15 and 16 of the constitution of India. According to the constitution of India.

“ARTICLE 14. The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

ARTICLE 15. (1) The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them.

ARTICLE 16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.”

MAIN ISSUE

No doubt that the fight for one's right shows a country's march on the path of development. But sometimes this fight of especially women, for their equal rights become a problem for men which interferes with their right of equality by giving an unfair advantage to the women in some issues like dowry death, divorce, sexual harassment, adultery laws and marriage laws.

Sometimes and in some cases, light's been thrown on the situations where women have twisted the meaning and definition of feminism and sexism entirely in their favor and have been using the laws made by the government wrongfully. They have been taking advantage of the benefits provided to them for their equal treatment and using them against men for their ulterior motives such as money, fame and sometimes revenge.

The research done here is not to prove that women are bad or wrong in their fight for equality but to prove that men are not always wrong for whom the society has made up its mind that men are wrong.

The perception needs to be changed and one should understand that sometimes it's the men who are the victims and need an equal treatment from the society. People are so engrossed with women's problems that sometimes they overlook the problems faced by men because of women's definition of equality which is slightly bent towards a favored treatment of women which shows not the gender equality but favoritism towards women, which in turn is just making the situation between men and women more complex because favoring women in some ways is depriving men of their right of equality because people have made up their minds that whatever happens between a man and a woman, it is the mistake of the man and he is wrong. People have a presumption that it is the male who is wrong in the first place with the preconceived notion that women are innocent and men are the culprits.

LEGAL SITUATION IN INDIA

Citizens of India are facing a lot of problems because of the gender biasness in different spheres like at workplace, in marriages, dowry cases etc. Mostly women but sometimes men also are harassed because of their sex and have to go through bad phases. To combat the problems, many laws have been made by the Indian legal system to help women who face unequal treatment in marriages and are being harassed for dowry. Now the problem is that these laws are made for the protection of women but they are being misused by them and are being used against men to get money and harass the in-laws.

DOWRY AND CRUELTY LAWS

Dowry in India refers to the durable goods, cash, and real or movable property that the bride's family gives to the bridegroom, his parents, or his relatives as a condition of the marriage. For safeguarding the interest of women against the cruelty they face behind the four walls of their

matrimonial home, Section 304B of the INDIAN PENAL CODE which deals with dowry death and section 498A of the INDIAN PENAL CODE which deals with matrimonial cruelty have been established in India.

Section 304B of the INDIAN PENAL CODE says:

“(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”⁴

Section 498A of the INDIAN PENAL CODE says:

“Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—

(a) Any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”⁵

⁴INDIAN PENAL CODE, RATANLAL DHIRAJLAL

⁵INDIAN PENAL CODE, RATANLAL DHIRAJLAL

Section 498A of Indian penal code is a criminal law and not a civil law. The offence under this section is Cognizable, non-compoundable and non-bailable. The wife/daughter-in-law whose demands are not met can make a written false complaint of dowry harassment to a nearby police station. The husband, his old parents and relatives are immediately arrested without sufficient investigation and put behind bars on non-bailable terms. On this ground, the woman gets to divorce her husband and re-marry or even gain money in the form of compensation. Even if the complaint is false, men and his family shall be presumed guilty until they prove that they are innocent.

498A can only be invoked by wife/daughter-in-law or her relative. Most cases where Sec 498A is invoked turn out to be false as repeatedly accepted by High Courts and Supreme Court in India as they are mere blackmail attempts by the wife or her close relatives when faced with a strained marriage. In most cases 498A complaint is followed by the demand of huge amount of money extortion to settle the case out of the court. This section is non-bailable (one has to appear in court and get bail from the judge), non-compoundable (complaint can't be withdrawn) and cognizable (register and investigate the complaint, although in practice most of the time arrest happens before investigation). There have been countless instances where, without any investigation, the police has arrested elderly parents, unmarried sisters, pregnant sister-in-laws and even 3 year old children. In these cases unsuspecting family of husband has to go through a lot of mental torture and harassment by the corrupt Indian legal system. A typical case goes on for years and the conviction rate is about 2% only. Some accused parents, sisters and even husbands have committed suicide after time in jail.

Many cases of false complaints regarding dowry death have come up and based on that complaints, husband and his family has been arrested and later on after the trial, husband was proved to be innocent.

Like in the case of **Savitri Devi vs Ramesh Chand and Ors. ON 19 May, 2003**⁶ Delhi high court gave its judgement and it was proved that the allegations of the girl were wrong and husband and his family were not guilty under section 498A and 304B of the Indian penal code.

The judgement says:

⁶ (2003 CriJL 2759)

“Only allegation against the respondents is that they did not like the clothes brought by the petitioner as customary gifts for relatives of the husband. One of the sisters-in-law remarked that had the marriage taken place with her sister, more dowry would have been received. These allegations when tested on the anvil of aforesaid tests, do not make out a case of either 'cruelty' or 'harassment' as contemplated by Section 498A IPC Non-acceptance of gifts might have hurt her feelings and other remarks might have been unkindly and incisive but by no stretch of imagination, such a conduct involves any of the ingredients of either offence under Section 498A IPC or 406 IPC. Neither such an act or conduct has the effect of driving the woman to commit suicide nor of causing grave injury nor, is likely to cause danger to life or limb nor did it amount to tormenting her either physically or mentally to compel or force her or her relatives to fulfill the demands of any property or valuable security. For the foregoing reasons, the petition is highly misconceived and is being used as a tool to hold the entire household to ransom and jeopardy. Petition is dismissed.”

In the case of **Narender Singh Arora vs State (Govt. Of Nct Delhi) & Ors. ON 1 September, 2010** also, it was quoted by the Delhi high court that:

“Normally in-laws are convicted on the testimonies of parents of the girl who, in a fit of anger or because they had lost their daughter, are not prepared to believe that their daughter could commit suicide for any other reason.

It is a reflection of mentality which is now taking grip of parents of a deceased wife in the criminal cases. Whenever a woman dies an unnatural death within seven years of her marriage at in-laws' house, whatever be the cause of death, the in-laws must be hanged. This case also shows how truth is losing significance because of the ego of the litigants to see that in-laws should be hanged.

I consider that the learned trial court relied upon the best evidence in order to come to a just and right conclusion whether it was a case of dowry death or it was a case of simple suicide and rightly acquitted the accused persons for the offences under Section 304B/302/498A read with Section 34 IPC.”

In yet another case of **State vs 1. Mr.Sona Ram Son of Mr.Nimba Ram, on 27 August, 2010**⁷ Delhi high court was of the view that the in-laws of the girl who were accused under section 498A of IPC were wrongly arrested and their charge was not proved beyond reasonable doubt and thus they were freed with all the charges being dropped.

⁷(SC 96 of 2009)

“In the present case there is sufficient evidence on record to show that the accused did not have any motive to commit the offence. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely.

FIR 332 of 2008, Police Station Patel Nagar, Under Sections 498A/304B/34 IPC -: 31 of 55:-

“personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth. However, there can be no sweeping generalization. Each case must be judged on its own facts.

These observations are only made to combat what is so often put forward in cases as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts.

The conscience of this Court is completely satisfied that the prosecution has miserably failed to bring home the charge against all the accused persons. Accordingly, Mr.Sona Ram and Ms.Havli Devi @ Sawli Devi, both the accused persons, are hereby given the benefit of doubt and are acquitted of the charge”.

Still there are many cases where dowry laws are being misused by women and used for harassing the husband's family. Sympathy and benefit of doubt are something that are not given to the men and their families.

According to the recent National Crime Records Bureau (NCRB) report, the number of married men committing suicide is actually higher than that of married women. While, women ending their lives due to marital harassment, is well played out in the media, and by several NGO voices, the marginally higher number of married men who have taken their lives is seldom heard. The NCRB report has it that 70.8% of the suicide victims are married males while 66.6% are married females.

The government should make this offence bailable so that innocent husbands and their families do not have to go through the unnecessary struggles and wrong arrest of their families and themselves.

NEW REALITIES OF HARASSMENT

In India, it is difficult for people to believe that a man has been harassed, sexually or physically because of the social beliefs they have been carrying out for ages. People believe that it is only women who are being harassed and men are always the harassers, now whether it is in the workplace or somewhere else. Sexual harassment as defined by the US Equal Employment Opportunity Commission (EEOC) is "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature" at the workplace. The definition is completely gender neutral and applies to both the sexes, but in India, the provisions of the SEXUAL HARASSMENT AT WORKPLACE BILL, which was passed in 2012, restrict only to women. Is this because men don't get molested in Indian workplaces? No, because as it turns out, men do get sexually harassed in India... A LOT!!!

From the findings of a recent Economic Times-Synovate survey, of the 527 people queried across seven cities - Bangalore, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune - 19% said they have faced some kind of sexual harassment at office. In Bangalore, 51% of the respondents had been sexually harassed, while in Delhi and Hyderabad, 31% and 28% of those surveyed said they had been sexually harassed. Around 38% of the respondents across 7 cities in India said that in today's workplaces, "men are as vulnerable to sexual harassment as women."

The biggest reason why these cases were never reported was "social ridicule" and because they felt they wouldn't be believed due to India's social beliefs.

People are not aware of the harassments faced by men because most of the researches focus on women and they don't even consider the plight of men and the problems they face while working or while travelling or while socializing. Just because the number of women facing harassment is more, people have become ignorant towards men. The thinking of society has created vast inequalities between men and women because it's the mindset of people that men are strong and women are weak. They don't accept the fact that situations sometimes force a man to behave cowardly because of the society's stereotype of them being the stronger sex and the harasser sex. Most of the sexual harassment cases of men in the workplace are not reported because they know that nobody would have faith in them and they would accuse men of not behaving properly. They take silence as their armor. This is making the scenario of gender equality even worse.

In the age of social media, it is very easy to make or break someone without analyzing both the sides of a coin and believing the first sight of the case which comes up. Recently, many cases have come up where girls accused boys of molestation and harassment. But the actual story

behind that was completely different. Girls used their position and the societal stereotype of girls being the victim and boys being the culprits.

CASES AND FACTS

A recent case of two Rohtak sisters and after that the case of a Delhi girl named jasleen kaur took over the media and was hyped to a great level. In both the cases, girls misused their position and created a stir in the nation that boys were harassing them and they started the wrong treatment.

In the case of Rohtak sisters, two sisters accused three boys of molesting them on a Haryana roadways bus on November 28, 2014. The video of the girls beating up the boys was uploaded on the social media and people started taking sides and immediately tagged the girls to be brave and strong and right in beating up the boys. People didn't even care to ask for the stories of both the sides. They immediately made up their minds on the statements of the girls. But after the police went through the investigation process and filed a chargesheet thereafter, something else came up. According to the statements of witnesses and evidences collected, it was proved that the girls had wrongfully accused the boys of molesting, and they were the ones who started the fight on mere argument of seats in the bus. Witnesses claimed that there was no harassment from the side of the boys and the girls first started the argument to sit on a particular seat and then started fighting and gave the incident the name of harassment by the boys because they very well knew that the nation would support them on this matter because it is only obsessed with women's safety and are not sympathetic towards the treatment boys have to face sometimes.

People on social media praised the girls and even the Haryana government announced cash rewards for the girls for showing such bravery and courage. Without hearing the story of boys, nation was busy praising the girls which was later proved to be futile and the girls wrongfully blamed the boys in the whole incident which was proved after all the investigation.

Here also presumption of the society took a toll on the men and their position in the society. In another case of jasleen kaur, a Delhi student pursuing her graduation from St. Stephens College, Delhi University, it was again proved that nowadays women are misusing their rights and using their gender to attract the attention of the nation. The nation gave the girl the benefit of doubt like many other girls in many cases and it was again put to shame because of such act of the girl. Here, the girl posted a picture of a man on his bike on a social media networking site and accused him of bullying her and abusing her. She claimed that she was just passing by and the accused bullied her and when she retaliated by clicking his picture and threatening to post it on

the socialmedia site, the man abused her and threatened her that if she does that, then she will have to face the consequences.

Again, as soon as it was posted, the nation started praising the girl for such a strong action without hearing or knowing what actually happened. Again the Delhi government supported the girl and announced cash rewards for the move. But a few days later, some evidences cameup and an eye witness claimed that nothing happened of the sort which was uploaded on the social media and it is just going the wrong way and creating the hype. The girl was actually controlling the traffic under some movement and an argument broke between the girl and the accused but no sort of abusing was there from the boy's side and the girl only made up the story of him molesting her.

Later on it was proved that the girl again misused her power and brought shame to all the girls of the nation. Thus, many cases like these prove people's thinking of favoring a particular gender. This whole thing is not bringing equality between both the genders but making it worse for both the genders. The number of molesting and harassing cases against women is more, agreed, but thinking that every other man out there is the same and the way they see girl is the same, is not correct and it only shows the people's judgemental behavior and their mindset towards men.

There are many more cases where men are harassed but just because they have a slightly higher position in the society, they are being taken for granted.

LAWS IN INDIA FAVORING WOMEN

There are many laws in India where women are favored and men do not have the right to go against women if they are cheated in a marriage or otherwise.

Section 497 of the INDIAN PENAL CODE deals with adultery and it shows clearly how women are favored even if they are wrong.

Section 497 in the Indian Penal Code

497. Adultery.—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

According to the law, men will have to face charges if he commits adultery and the woman, married or not, with whom he has committed such a sin, will not be dragged in the matter and

she will not have to face punishments even though she has also committed the sin of adultery with her husband. But it is only the man who is punished under this section and the woman does not have to face the charges. Here it clearly shows the favoritism and inequality between both the sexes and both of them should be punished equally.

In India, recent update about the proposed new MARRIAGE LAW (AMENDMENT) BILL has created a stir among many communities working for the equal rights for men.

The new amendment bill introduces “Irretrievable Breakdown of Marriage” as an additional ground for seeking divorce whereby wife gets 50% of husband’s pre-marital, post-marital, self-acquired and ancestral property as part of alimony, and the husband cannot oppose it. The Bill is opposed by various segments of society and even ministries and has international criticism on India for proposing such a law.

If implemented, this new law will bring instability in the society and the misuse of the law will increase. Marriage will lose its sacred purpose and will become a property or wealth-acquiring business. There is already an increasing trend towards material expectations in a marriage, the amendment will have a far reaching consequence. With divorce no more being a taboo in India, the incentive of women seeking divorce would work as a reverse dowry menace where women would marry for property and not for family or love. A similar law was implemented in China but has now been amended because more and more women were extensively misusing to grab property through serial marriages.

Thus these types of laws and some existing laws take inequality to a new level and both the sexes have to face the consequences of these laws. In India, the family laws are completely unfair to men and their families and they have to go through a lot and it takes around 7-8 years to prove their innocence. After removal of all the charges if a man wants to file a case of defamation or perjury against women, then also courts are not that interested to entertain these appeals and men find it very difficult to get justice.

The Supreme Court of India, in **Sushil Kumar Sharma vs. Union of India and others**⁸, was pleased to observe as follows:

⁸ JT 2005(6) 266

“The object of the provision is prevention of the dowry menace. But as has been rightly contented by the petitioner many instances have come to light where the complaints are not bonafide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intravires, does not give a license to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin’s weapon. If cry of “wolf” is made too often as a prank, assistance and protection may not be available when the actual “wolf” appears. There is no question of investigating agency and courts casually dealing with the allegations. They cannot follow any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumptions that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumptions are drawn which again are rebuttable. It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally undisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

Justice Malimath Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, 2003 observed the following and gave the recommendation to amend the law immediately:

“16.4.4. Less tolerant, impulsive woman may lodge an FIR even on a trivial act. The result is that the husband and his family may be immediately arrested and there may be a suspension or loss

of job. The offence alleged being non-bailable, innocent persons languish in custody. There may be a claim for maintenance adding fuel to fire, if the husband cannot pay. She may change her mind and get into the mood to forget and forgive. The husband may realize the mistakes committed and come forward to turn a new leaf for a loving and cordial relationship. The woman may like to seek reconciliation. But this may not be possible due to the legal obstacles. Even if she wishes to make amends by withdrawing the complaint, she cannot do so as the offence is non-compoundable. The doors for returning to family life stand closed. She is thus left at the mercy of her natal family.

CONCLUSION

“Wherever you find a great man, you will find a great mother or a great wife standing behind him -- or so they used to say. It would be interesting to know how many great women have had great fathers and husbands behind them.”

- Dorothy L. Sayers, Gaudy Night

Society has to understand these quotes and accept the saying with its full meaning in their life.

Nowadays, men don't feel like helping some girl in the office or somewhere else with the fear of being tagged as the molester and day by day it is becoming difficult to find chivalrous men because women take their chivalry the other way round because of the mindset and not applying their minds in that particular situation and then misusing their power provided by the government through unequal laws.

Everybody has formed an elementary stereotype of men in general as particularly brutish, insensitive, dangerous, dirty and repulsive. Casual and offhandedly negative generalizations are made about the males. Most people aren't even aware of the word MISANDRIST, yet the same people are all aware of the word MISOGYNIST. Why is that the case? Is it because people who bear a hatred of men don't exist, or is it because society has deemed that a hatred of men is unimportant or acceptable? Imbalances such as this propagate to all areas of our society, from discrimination in public services, commerce, employment opportunities, medical care, insurance and right through to the justice system. Ultimately, discrimination affects everyone.

Today, exploiting, abusing, insulting, kicking, punching and slapping males has not only become acceptable, but it is even considered laudable behavior on the part of women and girls. While the popular media showers titles such as “bravehearts”, “youth icons” or “female role models” on

the feisty women. This is in some way scaring the guys from genuinely helping the women nowadays.

To achieve gender equality, it is important to make laws for women as they have to face biasness and their right of equality is infringed but not at the expense of men. Equality means equal treatment of both the sexes, not the preferential treatment of one sex.

