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# "Are Men's Rights Inappreciable?"

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***Abstract***

*The common perception of today's time is that a woman or a girl can only be discriminated based on gender. But no one is bothered to think that even men can also be subjected to a situation, where discrimination happens with them also. The first chauvinism (means wrongful discrimination against women) is getting day by day higher consideration, still being a problem for the country. But what about "The second chauvinism" which is not getting the relevant concern even!! By the term "second chauvinism", the author means 'the wrongful discrimination against men and boys'. The rights of men are becoming unconcerned as one can see that mere mentioning the term "The second chauvinism" appears pathetic to someone. There is always a prejudiced notion that if injustice is done somewhere then it is only the woman who is victimized and not vice versa. But now, cases have come to be noticed by one where males are harassed, and no justice is given to them because it has been a discriminatory assumption that the man is wrong on his part and the woman gets the partiality to it. There are several laws only made for the protection of females, but no such laws are there for the males and this makes them also the victim of the society. According to the author, men are also the targets of domestic violence and sexual beating and in common such violence against men is taken to be less extreme because of the so-called prevalent outlooks towards men, such as the confidence that men are unafraid, they can withstand greater pain, and are more capable of self-defense, after which the society turns a blind eye towards men's discrimination. The author in this paper will be shedding light on how men are victims of discrimination in a comparable way as women are.*

***Keywords:*** *The second chauvinism, Male sexual harassment, Article 14 of Indian Constitution, Discriminating laws, Title VII of the Civil Rights Act of 1964*

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## INTRODUCTION

All through the history, men have occupied positions of muscle, whether in the community or in the personal sphere and their status as the fortunate gender has not changed to a large extent in modern time also. Yes, in the light of, say for example, the termination of the men from their job due to inappropriate sexual behavior is obviously making the women empowered to fight against the violation of their rights, stand up for their rights and complaining about sexual discrimination. It is validating a woman to know her worth more than that of merely an object of pleasure or something like that. The author is not going to discourage the concept of empowerment of women. The author completely encourages the woman who stands up for her rights and complains against the discrimination faced by her. But everything has a turn over side too. And on this turn over side there are men who hesitate to communicate with the female employee or someone working with him, or at any other place. The paper basically aims to demonstrate the discrimination against men, which is not getting the concern it ought to get. The situation of "second chauvinism" is seen not only in India but it can be observed in the Western Countries also. The author Benetar has cited some examples in his book "The second sexism" that men themselves seem to be responsible for discrimination against them. Moreover, the Title VII of the Civil Rights Act of 1964 is there for prohibiting discrimination on the basis of sex, where sex actually means gender.

The research of the paper begins with the causes of this discrimination against men and the impacts of the discrimination against them with overviews of different areas where men are discriminated not only physically but

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mentally as well. It is further analyzed that within some areas, men are either underprivileged of the safeguards available to women in equivalent situations or that pessimistic gender stereotypes affect certain laws and policies in India which, in result, place men in a destitute position. There is not any specific solution given by the author, but the author proposes that the reconceiving of the concept is needed in the present context, based on various theories relevant to the context existing. The hypothesis of this research is that men can in certain circumstances be treated disadvantageously because of their sex.

## PROFOUND FEMINIST IDEOLOGIES AND RAMPANT GENDER STEREOTYPES: THE STIMULATORS

The present situation in the country or even in most of the other countries in the world is such that "discrimination against women is wrong and discrimination against men is an equal opportunity." The famous author Benetar highlights some disadvantages of being a male and calls these disadvantages second sexism. "Everybody has heard the women's stories. But nobody has heard the men's" [1].

With this statement quoted by JN Clark, the picture can be drawn that the women are getting empowered day by day with still some exceptions, but the empowerment of men has remained behind the stories and struggles of women fighting for their rights. The second chauvinism is also rising day by day and for that reason it is to be concerned even more. All of the above statements are not anticipated to mean that the problems of women are blown up and should not be emphasized. But it is intended to show that men have become "official victims of institutionalized double standards" [2].

## BIASNESS AGAINST MEN: RADICAL FEMINISM

It has been clearly seen that the feminism, a movement for the rights of females, which is only called to be related to the females, but it is not a homogenous movement. The profound feminism and its ideologies depict men, it is not working for women. The radical feminist challenges to institutionalize male dominance [3]. The feminism has no longer remained with the purpose of being equal to men. The feminism is becoming hostile instead of being benevolent. Some forms of feminism have been harmful in that they have built an ideological foundation that is anti-male [4].

The Preamble of the Charter of the United Nations, of which India is also a part, lays emphasis on men and women should be honored with equal rights. The UN's Entity for Gender Equality and the Empowerment of Women defines gender equality as equality of "rights, responsibilities and opportunities of women and men and girls and boys" [5]. According to this definition, gender equality is not equivalent to women's rights, as the concept incorporates the rights of men to the same extent [6].

In India, man is the real working force and the feminist ideologies which are focusing more towards the down of the patriarchal dominance rather than the making of equal opportunities for women so that both the genders can go side by side in the country, are making it disadvantageous for being a man. Whenever there is a clash between a guy and a lady, the guy is always supposed to be at fault whether they are husband-wife, boyfriend-girlfriend, employer-employee, etc., and on that note, who can forget the famous Rohtak sisters who hit the boys badly and pretended themselves as brave girls?

Ever since its emergence, if you see the description created, developed and broadened by feminists, it's all about blaming and shaming men, including the men who have power, money, and influence.

Not defining the position in relation to the gender and focusing on how to cooperate in order to achieve an egalitarian and pluralistic society could change the situation. A departure from radicalism with liberal feminism discards the idea of the complete separation of the sexes.

## MASCULINITY AND FEMINITY

Traditionally, Women are well thought-out by the people as the more pathetic sexual category and have been suffering from

discrimination for a long time. The term 'becoming woman', coined by Simone de Beauvoir, a French writer and philosopher, reflects the view that women are not born with all the qualities that have been traditionally ascribed to them. Acquiring these traits is part of a process of becoming a stereotypical woman [7].There are many gender stereotypes of men in the society like men are in charge; they are always at the top or it is always men who work in science, engineering, and other technical fields. Also, the most common is that men are strong and powerful. They are always expected to be tough. These all stereotypes decide the roles that a man is supposed to do in the public. Some professions especially reject men. Men who are a beautician, nurses, etc., are criticized in the society. [8]

They are respected only if they catch up some mannish profession like engineers, policemen, etc. It is not that the gender stereotypes are only for men but the same are for women also. It could be implied that perpetuating the stereotype of manliness has led to a homogenization of men, as they lost their individuality and became perceived as types which have to conform to the ideals imposed on them. If they do not comply, they will be discriminated against as countertypes [9].

Possibly, one might infer from the discussion of the feminist theories and the concept of gender stereotypes are totally in contra to the Indian Constitutional Rights of equality. Articles 14, 15, and 16 are all equality rights [10], which clearly prohibit any kind of discrimination. This is because gender, from the human rights perspective, is to be construed as a matter concerning both sexes as equal cronies, deserving the same opportunities and safeguards [11]. Human rights are rights inherent to all human beings, whatever the nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status [12], and one of the characteristics of human rights is that they are equal and non-discriminatory and it is complemented by the principle of equality that "All human beings are born free and equal in dignity and rights"[13]. It is proffered that stressing on the advisability of genders does not put in to the cause of accomplishing gender equality. Research [14] also shows that these stereotypes create dangerous consequences that limit a person's full potential and well-being [15].

## MEN: NOT ONLY VILLIANS OF SEXUAL VIOLENCE

The perceptions for men which already exist in the society do not let a man receive the position of a victim, as that would subvert the very core of what it means to be conventionally masculine. When people hear about sexual violence, sexual assault, rape, etc., they perpetually draw an idea that a man is the villain obviously and a woman is the victim. This shows that sexual violence and gender stereotypes are intertwined. But if we do not understand that men can also be sufferers of sexual offences and women are also capable of being responsible for those crimes and that male victims may experience the similar effects of sexual hostility as female victims such as disgrace, pain, rage and terror, we can never truly scrap the menace of sexual offence. Because denying justice to a male rape victim and letting a woman perpetrator go scot free is as much a crime as rape itself. Of course, to understand this is a task that is challenging but it is to be noted that crime and rapes against men are rising in Indian society. In this epoch of growing numbers of rape, a new frame of mind of seeing every guy as a potential rapist has come out. People have gone beyond that there are still some gentlemen who stand up against every bad step towards women. [16]

In a recent survey of 2015 by ***The Economic Times*** – the Synovate survey, it has been reported that almost 19% of males working in Bangalore, Chennai, Delhi, Kolkata, and Mumbai have been the victim of sexual harassment at work place [17]. An example of

such cases is **Vijay Nair sexual harassment case of May 2017** [18]**.** Recently, a PIL has been filed in the Supreme Court of India which wants women punished for rape [19].

## LAWS ARE NOT GENDER-NEUTRAL

"*Any law which gender is-biased is AWFUL LAW."*

There are so many cases of women being victims everywhere that it was deemed compulsory to afford legal protection to them. The aim perhaps of the laws for women is not to put the good men on disadvantage but the present scenario clearly depicts that the laws made for women are becoming biased against all men in India. There are various laws for the protection of women but there are no such laws for the protection of men and this makes the male members in the society more vulnerable. It is exact that females need supportive laws for their safekeeping, but it is likewise factual that half of the times these laws are misrepresented. Say, for example, if a married woman merely says she is being distressed, the spouse and in-laws are put behind bars without any proof. Merely, the female's statement is enough for the punishment.

## WHAT IS THE MYTH?

The myths behind the creation of gender-biased laws or the laws only for women are so many:

1. **Misinterpretation of Patriarchy:** Most of the people consider patriarchy system as a mark of male dominance on the society and oppression of women. Also, that patriarchy is imposing limitations upon the women so that the laws for their freedom to survive have been made keeping the men apart from the laws.
2. **Women Are Unsafe:** There is a special section created called "Crime against Women". This section is itself denying the safety of men from the same crimes committed against them and just because these crimes are not reported due to the absence of any recording mechanism, the right of safety and equal treatment towards the men is denied.
3. **Men Do Not Need Any Legal Empowerment:** The most common perception that men are strong, and they do not need any legal protection because they can handle any crime against themselves as they are "strong".
4. **Women Are the Victims of Domestic Violence:** It is recorded that many old-age in-laws are tortured by the women in their family. Men are also the victims of domestic violence, but the problem lies in the reporting, which is not there in the cases of men domestically violated. Domestic violence against men is not recognized in India by the law and this helps women to get away scot-free.
5. **Gender-Neutral Laws Endanger Women:** Even women are unsafe with women-friendly laws. Crime is not gender-dependent. To instill public confidence in our legal system, we need legal and police reforms, else criminal women like Rohtak Sisters [20] will continue to take bravery award for being cruel to other women or men [21].
6. **Strict Laws Ensure No Crime:** If it is the true case, then imposing the death penalty for murder would have stopped the cases of murder in India.

## WHAT ARE THOSE BIASED LAWS?

1. **Cruelty Laws:** If a married woman commits suicide within seven years of marriage, it is assumed by the court that the suicide was abetted by the husband or his relatives and shall be punishable under Section 304 B of IPC [22]. This discriminates against men as with no proof, it is to be assumed that the death is abetted by the spouse or his family.

   Before July 2014, a mere complaint registered under Section 498A allowed the

direct arrest of the husband or his relative, whose name had been mentioned in the complaint, without any arrest warrant or any investigation. During the year 2012, a total of 197,762 persons were arrested all over India for the offence under Sec. 498-A IPC which was 9.4% more than the year 2011. The rate of charge-sheeting is very high as 93.6% but the conviction rate is very low, i.e., 15% only [23]. The desired object of the Section is not being achieved, whereas it is being used to harass the family of the husband.

Only the man is prosecuted for adultery. A married woman cannot be punished as a partner if she commits adultery with the husband of another woman [24].

2. **Dowry Laws:** Demand for dowry is a punishable offense [25], and dowry death is also a punishable offense [26]. At present, dowry laws are being misrepresented by the wives to hassle and persecute their husbands. The dowry laws are unfairly used by the women, due to which there are several fake cases against men. The sky-scraping rate of suicides being committed by males is mainly due to harassment by wives. Dowry law is a bludgeon supplied to the wives to protect themselves from their husbands and his family. But what should be done if these laws are misused by wives to torture their husbands and cause them mental cruelty?
3. **Divorce:** Divorce is the means of dissolution of the institution of marriage by either of the parties to marriage. Earlier, wives used to seek divorce due to the torture by their husbands. But nowadays, things are changing and now husbands are getting harassed by their wives and many petitions are filed in the court by the husbands [27].

   And, if the couples are having children then after the divorce, there comes the issue of custody of their children. Again, on that point, the laws are biased against men. More than 90% of child custody is awarded to mothers resulting in gender discrimination. It is a matter of rule that under (outdated) Guardians & Wards Act, the custody of a child below 5 years should be retained with mother.
4. **Inheritance:** The Hindu succession Act of 1956 underlines that if the deceased has no Will, the spouse, mother and children will inherit the property belonging to the deceased. The father is entitled to the property only if the above-mentioned persons are absent.
5. **Rape:** Under Section 375 of Indian Penal Code, there is no situation listed for the rape by a woman. Boys are also raped by men. It is because rape is not about sex, but control. Also, if a 16-year-old girl and boy have sex, then it is the rape of the girl by that boy, according to sixth situation in the section. Way to go, logic!

If a man has sex on the pretext of marriage and does not marry, it amounts to rape, he cannot break up with that woman; otherwise according to Indian laws, he is a *rapist*.

It is true that we talk about gender equality but when it comes to the Indian laws it is far from reality.

The courts have somewhere recognized this discrimination against men when they face the false cases against them under the laws against them. Recently, The Supreme Court said if parliament had enacted section 498A IPC in 1983 to protect women from cruelty in matrimonial homes, it was now obliged to frame protective measures to curb the harassment of husbands and their relatives from misuse and prevent a "war between two sexes" [28].

But all these reforms or recognitions are too small and too slow before the existing stimulators leading to the discrimination against men and the laws in India for the justice of women only.

## CONCLUSION

What is clear now is that discrimination against men is an actual phenomenon in not only our country but in other countries also. The main reason for the rise in the cases of sexual harassment is that now the cases are coming into the knowledge of the people as now the males have come forward and have taken a stand for themselves. Due to the common gyno-centric view of gender equality, people are not ready to accept that men can also be a victim of sexual harassment. Even

though the most prominent human rights bodies stress that the concept covers not only women but also me [29], where the ponder of the society is on gender equality, there is it not important to think of men as potential victims too? Gender inequality hurts everyone. Both forms of inequalities, against males and females, should be criticized. A mutual balance of feminine and masculine strength should be encouraged to build up a mentally and physically healthy society. Respect for both genders should be taught from a young age. Sentiments of each and every gender should be taken care of. We have to support male survivors of rape and help them heal from their scars. We have to accept that sexual abuse of boys and men is a reality in India. Gender-based crimes are a direct result of gender bias and sexism. We must free our culture of sexism.

The need is to realize that only women's rights are not human rights. Men's rights are also human rights. The author was surprisingly amazed by seeing that the book on human rights does not consist of the heading even like "Men and Human rights". All over there it was women, women and women... For a silly example, no one calls the first language as "father tongue", it said to be "mother tongue" only then, where the patriarchy does exist as it has been a topic of havoc these days for feminism. The suggestion from the author's side is that the right of equality is to be indulged for all the sexes equally. It is not fair to do justice to one sex on the cost of doing injustice to the other. It can be concluded from the overall discussion that men's rights are not inappreciable, but they are really getting unappreciated. As, "*Justice in fallen world is not equality outcome but equal treatment under a fair law".*

## REFERENCES


1. Clark JN. A Crime of identity: Rape and its neglected victims. *13 Journal of Human Rights.* 2014; 153p.
2. Nathanson P, Young KK. *supra* note 12, p. 118.
3. The End of Patriarchy, Robert Jenson https://mensstudies.eu/2018/06/23/the-end-of-patriarchy-radical-feminism-for-men-robert-jensen/.
4. The Pros and Cons of Feminism, https://www.psychologytoday.com/us/blog/homo-consumericus/200908/the-pros-and-cons-feminism, Aug 10, 2009.
5. Concepts and definitions, http://www.un.org/womenwatch/osagi/conceptsandefinitions.htm.
6. Concepts and definitions, http://www.un.org/womenwatch/osagi/conceptsandefinitions.htm.
7. Kruks S. Becoming woman. In Code L (ed.). Encyclopedia of Feminist Theories. London: *Routledge.* 2000; 40p after de Beaevoir S. The Second Sex. New York: *Vintage Books*. 2010.
8. https://www.fickerforlife.com/gender-inequality-against-men-in-india/.
9. Zbrowska K. Masculinity, The Roots of Discrimination of Men. Spring 2016. http://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=8877662&fileOId=8877663.
10. State of Kerala v. N.M. Thomas. 2 SCC 310 (SC: 1976).
11. United Nations Entity for Gender Equality and the Empowerment of Women: Concepts and definitions. (14 Sept. 2018, 15:05), http://Www.Un.Org/Womenwatch/Osagi/Conceptsandefinitions.Html.
12. Tandon MP, Anand VK. International Law & Human Rights. Raghuvanshi SK (Ed.). *Allahabad law agency*. 667: 18.
13. Universal Declaration of Human Rights, Article 1.
14. http://talkitover.in/self/gender-stereotypes.
15. www.un.org/womenwatch/osagi/pdf/e65237.pdf.
16. Source: http://nationalviews.com/.
17. https://blog.ipleaders.in/discrimination-against-men/.
18. https://www.huffingtonpost.in/2017/05/11/when-vijay-nair-unmasked-his-vicious-cyberstalker-the-story-tur_a_22080817/
19. https://www.indiatoday.in/mail-today/story/men-victims-too-pil-in-supreme-court-wants-women-punished-for-rape-1142456-2018-01-12.
20. https://thelogicalindian.com/news/rohtak-sisters/.
21. https://www.saddahaq.com/myths-behind-

creation-of-gender-biased-laws-in-india.
22. The Indian Evidence Act, 1879, No. 113B, Acts of Parliament, 1879.
23. https://lawupdaterblog.wordpress.com/2016/11/01/case-analysis-arnesh-kumar-v-state-of-bihar/.
24. Yusuf Abdul Aziz vs. the state of Bombay, 930 SCR (SC: 1954).
25. Dowry Prohibition Act, 1961, Acts of Parliament, 1961.
26. The Indian Penal Code, 1860, No. 304B, Acts of Parliament, 1860.
27. Dastane vs. Dastane. 3 SCR 967 (SC: 1975).
28. https://timesofindia.indiatimes.com/india/need-law-to-shield-husbands-from-harassmentSC/articleshow/65815542.cms.
29. United Nations Entity for Gender Equality and the Empowerment of Women: Concepts and Definitions. (14 Sept. 2018, 15:05), http://www.un.org/womenwatch/osagi/conceptsandefinitions.html.

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