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**Law AS MALE – On The Basis Of Provisions In Criminal Law And  
Articles In Constitutional Law.**

“We live in a male dominated society, where a woman needs a man to protect her from another man”. We all know that India is a democratic country, but what do you mean by a democratic country or rather what do you mean by democracy? A question that always comes in the mind of every person residing in India. A democratic country maybe defined as a country in which there lies no ruling of kings and queens but rather the citizens of the country chooses for themselves their representative who would look after the country, for the wellbeing and betterment of the country. The representatives here are chosen by the people, for the people and from the people. A democratic country is a place where each and every citizen are given equal rights and their lies no discrimination. People of a democratic country have endless numbers of rights and freedom namely, right to speak, right to vote, right to education, right to living, right to justice, right to seek redressal, right to information, etc. Male dominated society is seen in almost every now and where, in each state, each city, each village, district, not only in India but in other countries as well. The Constitution of India tells us and talks about equality under the eyes of law, that is to say that according to the Constitution and the articles contained all are equal irrespective of their gender, colour, caste, creed, sex, religion, race, status, etc, but how much of these articles are followed in India or rather how equally the rights are given to all? A question which each and everyone should ask ourselves, whether are we getting the rights which is given to each and every one born in India and is the citizen of the country. We hear people talking about gender equality, but we can never see them doing gender equality.

“LAW AS A MALE”- what do we understand by this phrase or proverb? In simple words or in the language of any local resident, it may be said as a place where all things are done and are controlled only by the male members. But is this proverb, right? or rather is this proverb suitable for a country (democratic country) India? Obviously, the answer is no, a big no but the answer does not matters because this is what is happening in the country despite being a democratic, this is what is seen being done, not just from past few years but from far many more years and this is not just because of lack of awareness but also due to the ego problems of many individuals. The male members does not likes to see a female walking side to side along with them , doing great in life and sometimes doing better than them as well as achieving better then the male.

Biasness towards women can be even seen in the family laws of India namely, The Hindu Law and The Muslim Law. Speaking specifically about both the variety of laws, the Hindu law says that a married daughter has no rights in the property of her father (this law has been changed in recent times) while the Muslim law gives a percentage of roughly 22% to a daughter irrespective of married or not. According to the Hindu law a woman cannot run the family that is to say she cannot be the Karta of the family and is entitled to maintenance till the time she is not married. None of the laws gives equal rights to the woman though the Constitution denies this and states that all are to be given equal rights without any kind of discrimination on the grounds of gender, caste, status, creed, race, colour, sex, etc.

In India male candidates are more preferred than any female candidate for any kind of outdoor work. India's female labour force participation rate is among the lowest in the world and one reason for this is that the employers just do not want to hire women. In a study of 830,929 job advertisements posted on blue collar jobs portal Babajobs.com between 2007 till 2017 found that the employers often look for only male candidates. The preference for male candidates was found to be particularly common for machine related sales work or elementary jobs. In contrast role targeted for women were of low pay, low status etc.

Law as Male, the phrase itself signifies how much the law in India gives preferences to the male members, thus making it more male dominating. Every now and then we see so much of news coming up of rapes, molestation, eve teasing but no investigation can be seen done and most of these crimes are done and attempted by male members and as my starting lines above said we the females, need a man to save us from another man. Though not at all men are bad but still we can see that most of the male have a habit of dominating the females. Recently, in the month of September 2020, a young girl was being taken to the hospital in an ambulance in Kerala and got raped by the ambulance driver during the journey but no investigation till now is being done on it. Imagine the level of shamelessness that not even people feel pity on the condition of the females of the human being, mankind has lost in the past. We have not only witnessed rapes of young girls but also three-month-old girl child in diapers and even of an elderly in her late 60s years of age. Still the government, the society, the constitution all are silent and none can be seen raising their voice, not even taking a stand. It clearly signifies that the constitution is biased in terms for justice of the females.

Not just the constitution but even if we look into other laws of India we can witness this discrimination clearly. In the Hindu Law Act we clearly see the discrimination in the matter of the head running the family basically known as the Karta, where only the male member is chosen for this post, all the other family members has to report to the Karta of the family. In the Muslim Law Act the female has lesser right in the family property then the male.

The right to equality stated in the constitution of India under article 14 to 18 speaks clearly that none can be discriminated on any grounds and that they will be given equal rights and justice, but this cannot be seen in today's time.

Few years back there started a movement known as the Men's Right Movement in India in Delhi by a Supreme Court lawyer namely, Ram Prakash Chugh in 1988. Chugh's intention

was to draw the attention of the public toward ill-treatment of men by women or by their wives in cases such as dowry harassment, domestic violence, eve teasing and so on. The rights movement kicked off as an organisation geared towards stopping the practice of cruelty of wives on husbands.

The main bone of contention of the movement was the issue of the dowry law which was created in 1983 and formerly known as section 498A of the IPC. The law protects the interest of women when it comes to sexual harassment, violence, abuse, as well as cases when a bride fails to complete her dowry payment. The law had empowered security agencies, particularly the police to willingly arrest husbands and their relative for committing crimes relating to dowry. This prompted MRAs to lobby with a view to changing the laws, as the law gave too much power to women. In 2014, the Indian apex court in their ruling relaxed the provisions that empowered the police to randomly arrest a man for committing dowry offence. The court's decision was purportedly made to protect husbands against their angry wives.

According to recent data released by the National Crime Records Bureau, number of rape cases committed on a daily basis is a little above 100. Out of these numbers, only a paltry one forth is convicted. MRAs used discrepancies like victim blaming, coercion by relatives and backlogged courts to cry fowls.

Gender and Law has become an established research area with a vast literature going through several conceptual evolutions. The study of gender in law has been mostly carried out under the rubric of feminist legal studies and writing on law and masculinity has been predominantly engaged in identifying and challenging discourses.

Law has even been seen being more favourable with the females and this can be seen in various sections and articles. Law sometimes tends to be biased between the gender be it male or female and this is not right.

There are several provisions made for women specifically in terms of legal provisions and in terms of constitutional. There are several articles in the constitution namely, article 14 , article 15(i), article 16, article 39 (a ,d), article 42, article 46, article 47, article 51(A, E), article 243 D (3), article 243 D (4), article 243 T (3), article 243 T (4), respectively. There are also several legal provisions as well to keep the safety and security of the women and to ensure them equal rights and remedies.

Law keeps being biased toward both men and women, where on one side we talk about law being biased towards female, law even is biased with the male members as well. This can be seen in the sections 375 and section 497 of the Indian Penal Code respectively. In these sections we can see law being biased towards men and favouring more the females.

Law at times even punishes the male so badly and harshly that does not seem to be right and correct. Not only in India but all over the world it can be seen. Indian law is basically based on the Dharma principles and drew the inspiration from Latin, British and American jurisprudence. Indian law favours the women quite slightly specifically in terms of rape, modesty and such other cases.

Both men and women are seen being biased in front of law whereas it can be clearly seen that the male members are being more preferred than the females in the law of India. In few cases it can even be seen that women use this favouritism and feminist methods as their main weapon. Speaking clearly and more precisely in few matters the females on purpose blames the males in order to get sympathy that is to say even if the male person is not involved in any sort of crime or fraud the females blames him for it just to satisfy its personal needs and selfish deeds. Sometimes to take revenge too women use this feminist attitude as their main weapon. Well clearly speaking this is one of the most wrongful acts that can be done.

Gender equality is given to each and every citizen of the country by the Constitution of India and this right cannot be taken away from them at any cost as this right is given to them irrespective of any kind of discrimination on the basis of caste, colour, creed, gender, religion, race, sex, status, etc.

We even hear a term known as Male Privilege, now what is actually male privilege. It may be explained with the help of an example that is to say, an empty road late in the night looks cool and peaceful for the male, whereas the very same empty road in the night is the worst nightmare for females and this is because they are not safe, it is an open invitation on getting abused, raped, molested and so on. Why is it so? Why does this thing happen? Why a girl is afraid from travelling at night? This is because our system our laws are very weak and least concerned when it comes in the matters of the females.

Law as Male is a very common term as we hear this on everyday regular basis. We talk about equality but when it comes on giving to equal rights and freedom people tend to turn the backs and start running away from the scene, the situation. Everyone talks about independent, young, ambitious women but they like them in words and imagination only because an independent woman is just less valued and people always try to pull her down because they just like it in words and not in reality. For them women is just a thing whose main objective and purpose of living is to obey the male members.

Majority of the people of India still have this mindset that women are supposed to do only the household and obey the male whereas if any female thinks of achieving their dreams and doing big in their life, then they are forced to come back, are pulled down.

In today's world we see people talking about Women Empowerment. So now women empowerment means making women strong, allowing them to take their own decisions for themselves, doing what is right for them, dream big and such other things. In earlier centuries women have gone through a lot, have suffered a lot at the hands of men. As times evolved women understand their rights and power. There began the revolution of women empowerment.

The criminal provisions provide the females with various provisions and sections in order to protect them from eve teasing, harassing, rape, abduction and so on various other ill-treated manners and behaviours. There are few sections provided for the women specifically and those can be stated under the followings: -

- 1- Obscenity- Sections 292,293,294.
- 2- Dowry Death-Sections 304(B), 174.
- 3- Acid Attack-Sections 326(A), 326(B), 357(B), 357(C).
- 4- Rape-Sections 375, 376, 376 A.
- 5- Outraging of modesty-Sections 354, 354A, 354B, 354C, 354D, 509.
- 6- Cruelty-Sections 498.

There are endless numbers of crimes being done with the women. Those are mentioned as follows:-

- 1- Kidnapping.
- 2- Eve Teasing.
- 3- Chain Snatching.
- 4- Rape.
- 5- Sexual Assault.
- 6- Honor Killing.
- 7- Dowry Deaths.
- 8- Cyber Crimes.
- 9- Acid Attacks.
- 10- Stalking.
- 11- Domestic Violence.
- 12- Trafficking of women.



If we continue to point the crimes against women, it will just keep on adding because the crimes against women is just increasing day by day and none is concerned about it neither the media nor the locals and nor the law and nor the government.

There is law for all kind of crimes but no justice is provided. In a recent survey it is said that there are approx. 3 crores cases pending in the court and the total amount of judges is something of approx 20,000-21,000 only that means that one judge is allotted for one lakh people/ citizen, dates are just given to the people but no justice is delivered. This is also due to hampering of evidences, misplace of witness and such things which just keeps on delaying the justice for the people.

Now, law is made for the betterment and peaceful living for all kinds of human being/ mankind. Now just imagine a life without law. A person in a village steals an ornament and runs away. Each and everyone know who it has done but cannot do anything for there lies no punishment, no penalty. Now imagine again this thing happens and still you cannot do anything as there lays no law. Now it is very clear with the help of the above example that why do we need law.

Law is essential in the society. Law is there to guide the society towards happiness without bloodshed and in peace and harmony. Law helps us to restrain ourselves in terms of great thirst for more money or power. It curbs our greed reminding us that there is someone or rather something out there ready to punish us if necessary. It helps us to restore the balance in

the society and bring justice to the victimized. The greatest thing about law is that all are equal before it. No man is rich or poor in the of law.

Law is dynamic. In a world where survival of the fittest is prevalent and looking at the size of human population we can say only one thing. LAW IS NEEDED FOR SURVIVAL AND IS ESSENTIAL. Law plant an element of fear which may prevents in killing of fellow hum.

The constitution and different acts passed by the government and the states give special protection to women, aware of their position. Despite all these pieces of legislation loaded in favour of women, their condition is only improving at a snail's pace. Social taboo and poor literacy rate contribute to this situation. Owing to the backwardness of women education, many laws and rights just remains in the paper itself. Majority of the women are simply unaware of their rights and freedom.

The result is that they tolerance in insufferable marriages, never thinking of divorce, they work without security of their job and under humiliating conditions and situations. They suffer the worst when they come in contact with the police. This is why every intelligent and educated women should have some knowledge of law, not only to save herself but to even help other women in need.

There are even some special benefits given to women. The Maternity Act passed in 1961 states that a working woman is liable for 12 weeks of paid leave during her pregnancy that is to say 6 weeks before delivery and 6 weeks after delivery. This is so because if the army by shedding their blood saves mankind then the women by giving birth to a live creates mankind. It is said that during the delivery of a child the mother faces the pain which is similar to breaking of 20 bones together.

Where we are speaking of favouring the male only, the females also gets favoured in some cases. For example, in case of adultery it is said that the women does not commits any offence but just the man commits offence and therefore he is alone punished for it on which he is sent to imprisonment for up to five years or for penalty or for both. Well in this case there should be a proper investigation done as sometimes it's not the male who is in fault but the female doing the wrong. Sometimes in the heat of anger and revenge some females tends to do this. And in few cases both the married person by their choice does this. Henceforth, there should be proper investigation in order to find out the truth.

There lie many such more examples where we can see the law favouring the female on top of male. We this should not be the case. Law is made so that justice is delivered to the correct and rightful person irrespective of its gender and its status. But in India this is hardly seen being done, law just keeps on favouring one or the other person.

There are many provision and articles laid down under the Criminal law and under the Constitutional law, both for men and women respectively but when it comes on delivering justice this concept of favouring starts and this depends on the scene and scenario and nothing is fixed. We often see peoples and persons talking about justice and of changing the society, the mentality, the thinking and such other things but in reality nothing can be seen

done because to bring a change in the society, one must change themselves first because it is rightly said be the change you want to see in the world, change beings with ones selves. Put your words in action because it's now or never.

There are endless numbers of acts and laws which are made for the betterment and safety of each and everyone but due to lack of awareness and poor literacy people tend be to be unaware of all such things which are made for the betterment and peaceful living of them and then such corrupt people tend to take advantage of such drawbacks and does wrongful act which further keeps on increasing and corrupting the nation on larger scale. Lack of awareness is the main reason for all such problems and lack of empowerment as well. Both these things if combined together and is guided and updated on a regular basis and makes sure each and every citizen is aware of these things then for sure the corruption and exploitation will soon be seen disappearing and vanishing.

We always see people talking about all the problems that we face in our everyday life or rather things we everyday see but we will hardly find people talking about the solutions because as human being, we tend to have this nature of just sitting and gossiping and forgetting about the incident, the corruption being done unless and until the same corruption the same incident does goes through them or with someone close to them.

So, what are the remedies of such biasness, such corruption, such favouring attitude? Well its quite easy and simple but yet is the most important above all. AWARENESS- A word which is small in size but meaning wise quite big, EMPOWERMENT- Another word which is a remedy to such problems.

Due to lack of awareness on the first part people tend to get misplaced and misguide and wrong things automatically starts happening. People are just unaware of their rights and freedom and law which is given to them from the time they are born. Due to this there arises endless numbers of crimes and corruption on our everyday life, people suffer misbehaviour due to lack of awareness, they suffer intolerance.

Empowerment in simple terms means giving power, once a person gets to know what exact his or her power is then there lies no boundaries for them because as it is said sky is the limit. One must know what their rights and dreams and one are must have that much of guts and strength to fulfil what they desire for, aim for.

Law as a male is quite a right saying as most of the times or rather maximum time it is the male members who are favoured and given more and most opportunities and chances above and on top of women. But saying this that women too at times are being favoured above would not be wrong because as in cases of adultery we have already seen this kind of favours.

Our legal system favours both male and female at times but most of the times it is the male who are favoured on higher scale. Females are simply just pulled down most of the times be it in workplace, on roads, or even in their own house, households. Women mostly are the victims of old thoughts and cultures of peoples which always drag them down. Even if a

woman tries to do something big in their live then these old thoughts spoils their whole desire and ambitions.

We want to make world a better place to live in, to spread smiles, to spread love, to spread awareness, to spread happiness, to spread joy, to spread laughter, to avoid hatred, to avoid jealousy, to make it a better place where people live with peace and harmony, laughter and joy and not with hatred, fear and such negativity.

The idea of changing the world may seem daunting. Most people think that I am a single person, what I can do alone? But no this thought is absolutely wrong, a single person can bring about a lot of change, and as it is said- Be the change you wish to see in the world. If this world becomes a better place then automatically the thought of people will start changing, the thought of racism, the thought of biasness, discrimination in the fields of gender, caste, colour, creed, race, sex, religion, and so on. There are few ways in which one can bring about change in the mindset of people, in the way they think, in making the world a better place. They are as follows:-

- 1- Volunteering time at local schools (this will help in bringing about literacy in the world and awareness as well).
- 2- Donation and Fund Raising.
- 3- Being generous- A simple and most easy thing is to be simple, kind and generous, down to earth. Being selfish is very easy but trying to help others and being generous requires a lot of guts and courage. By doing this simple thing, one can easily see how their life starts changing.

Everyone talks about the problems but hardly we see solutions coming up or being given by anyone but there is a need to solve such discrimination, discriminations on the ground of mere male and female. This is not a right thing to be done and tolerated in a democratic country like India where we have been given the right to speak for and to seek for justice and this cannot be taken away by anyone as this is given to each and every citizen of the country by the Constitution of India, the book which is nothing less than any religious books of course.

Law As Male, as it is mentioned is a phrase we always hear and mostly in family laws and their relating cases should not be supposed to be perfect because there must not be any kind of discrimination, a family can even be maintained by the females and in my opinion it will be better maintained as they will know all the necessity and requirements better. In today's world females are heading from head to head, shoulder to shoulder in all the fields with the male and henceforth there should not be any kind of discrimination on this ground.

Therefore, in the end at last all I would like to say that we all have to live in the same environment, in the same world, in the same society so why not make it a better place to live in irrespective of any kind of discrimination on any grounds be end because in the it is we the people who have to live in this world so why not make it a place where everyone lives happily without any kind of stress and none harming the other.

In the end I would conclude my article with a quote stating “To make world a better place, one must start it from themselves because it’s only in our hands”. We make a living by what we get and we make a life by what we give, because only by giving we are going to be able to get more than given. Henceforth we all need to unite ourselves remove this barrier of males and females and bring out the best from each and every opportunity, to bring about awareness so that no one is left behind unaware of their rights.

## REFERENCE

- 1- Justice Palok Basu, “ Law relating to Protection of Human Rights Under the Indian Constitution and Allied Law”.  
(Modern Law Publications, India 2<sup>nd</sup> Edition, 2017)
- 2- IPLEADERS  
<https://www.google.com/amp/s/blog.ipleaders.in/humanrights/amp/>



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