
GENDER NEUTRALITY: ABROGATION OF RIGHTS OR PRESERVATION OF ONE?

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ABSTRACT

Achieving gender equality in almost every sector has been quite a dream for Governments, feminists of different nations, minority groups, and anyone who feels left out of this complex society. Gender equality was never hard to understand till every thinker, policymaker decided that the marginalized and weak groups of society should be brought to the forefront and thus new laws for the acknowledgment of their rights were legislated upon. However, to eradicate inequalities, the government or the policymaker has somewhere not just provided equality to backward groups, especially women and children but has indirectly led to the discrimination of those who had found a safe place in society. The equality provided to one group, if results in harassment of another group then such equality seriously requires amendments.

The present paper highlights inequalities that take place at the instance of protection of equality of weaker groups and which go unnoticed but are a serious threat to a growing society like India. The first part of the paper talks about the utmost necessity to implement gender-neutral laws and escape the inherent inequalities of society that are caused by the frequent misuse of the laws made for marginalized groups. The second part deals with the consequences of having laws that are gender-biased and their overall impact by citing examples of some heinous crimes and the third part tries to address the challenges in implementing these gender-neutral laws, especially in the context of a nation like India.

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INTRODUCTION

A nation's societal structure serves as the foundation for its legal system. In terms of the law, the principle of gender neutrality in the legal aspects refers to the idea of equality in the recognition of each person's rights, regardless of gender.³ The concept of gender neutrality holds that social structures, language, and other institutions that define gender roles or gender identity shouldn't differentiate roles based on a person's sex or gender. This is thought to assist in preventing prejudice based on gendered interpretations of any phenomenon.

The initial viewpoint is that of Indian women. Since the beginning of time, women have been a marginalized population who have been taken advantage of, usually for power. The viewpoint of men is presented here on the second side. The essay's focus is on gender neutrality rather than women's empowerment. Consequently, rather than rules that favor one gender over another, the focus is on regulations that need to be rendered gender-neutral. Historically, men have been perceived more as offenders than as victims, particularly when it comes to sexual offenses. However, it has been apparent in recent years that even men can be victims, despite the higher stigma associated with doing so.

The transgender community and other members of the LGBT community represent the third and most marginalized group. While their presence has always been acknowledged, their rights have not always been. They are disproportionately affected by gender-biased laws since crimes against them are easily categorized as "unnatural sex" and disregarded. Section 377 of the IPC does not even apply to offenses committed against them.

From prehistoric times until the late 1960s, women's position and conditions were fairly poor. Epics and Puranic literature in ancient India associated women with property. According to Manu, a woman must rely on her father while she is a kid, her husband when she is a young woman, and her sons when her master passes away. Apart from equality, women were not even considered human beings; instead, they were seen as commodities by males, who used them to complete their everyday tasks. Women suffered from a lot of things, including widespread illiteracy, forced child marriage, unpredictable widowhood, strict loyalty requirements, and

³Naduvathery, G. (2019, September 25). *Gender neutrality: Rights of one, abrogation of another?*. Academike. <https://www.lawctopus.com/academike/gender-neutrality-rights-of-one-abrogation-of-another/>

opposition to widows' remarriage, which turned many of them into prostitutes, polygamy, female infanticide, and brutality.

Gender Neutral Society is desperately needed. Equality ought to exist in the real world, not simply in our minds and literature. Females should have the same rights as males that are bestowed upon them at birth. Male and female should only exist in words; in our minds, they should be the same, with equal rights and responsibilities. Gender neutrality aims to create a society where men and women have equal rights, obligations, and opportunities in all areas of life. Political empowerment, educational attainment, and sustainable development are inextricably related to gender neutrality. We must improve the state of the planet for both present and future generations. We can only truly realize a brighter future, full of ideas and input from everyone across society, when everyone is recognized as equals.

THE NECESSITY OF ENACTING GENDER-NEUTRAL LAWS AND ISSUES ARISING IN ITS IMPLEMENTATION

Since gender equality affects every member of the community as a whole and is the fundamental tenet of a just society, social inequality is a very significant issue with far-reaching consequences.⁴

Gender minorities and women are disproportionately affected by gender-based violence, which is a pervasive issue in India. The current legal system places a higher priority on defending women against assault than it does on the opinions of men and victims of gender discrimination. Gender-neutral laws have the potential to close these protection gaps for all individuals. The implementation of gender-neutral terminology and sanctions by the legal system can foster a more equitable and inclusive approach to the prosecution of gender-based offenses. These laws will combat social norms that encourage injustice and discrimination, provide equal protection to all persons, and acknowledge the diversity of experiences and identities within genders.

For several reasons, the introduction of gender neutrality in criminal law is crucial.

Because all people ought to have equal opportunities in life. For a very long time, some

⁴ Dubey, P. (n.d.). *Remembrance*. India Law Journal. <https://www.indialawjournal.org/gender-neutrality-in-india-and-its-analysis.php>

people's opportunities were merely based on their gender. For instance, a male may have felt he couldn't accomplish certain things because they were seen to be exclusively for women, while a woman may not have had the same opportunities to work in particular jobs. To put it briefly, gender-neutral laws are crucial because they guarantee that everyone in India has an equal opportunity, remains secure, and is free to be themselves. Everyone lives in a better and more equitable country as a result of this.⁵

Gender-neutral laws ensure that everyone, regardless of gender, receives equal protection under the law. By recognizing that men and gender minorities can also fall victim to crimes based on gender, the law recognizes their experiences and provides avenues for justice and support. It challenges the societal stereotype that men are naturally violent and women are usually weak. By eschewing gendered classifications and punishments, the legal system can address particular behaviors and circumstances as opposed to assuming guilt or victimhood based on gender.

Gender-neutral laws recognize that gender intersects with other identities such as caste, religion, class, and sexual orientation. By considering these intersections, the law can provide a more holistic understanding of individuals' experiences and address multiple forms of discrimination and marginalization. Gender-neutral laws also serve to allay concerns regarding potential abuses of gender-specific legislation. By focusing on evidence-based examination rather than gender-based presumptions, the law becomes less susceptible to abuse for personal grudges or unfounded accusations. Sexual assault can affect anyone, regardless of age, gender identity, or sexual orientation. Stories of violence against women, including rape, sexual assault, and domestic abuse, reach our ears regularly. Although numerous regulations are in place to safeguard women, Section 375 of The Indian Penal Code states that rape is a crime in which men are only thought to be the offenders and women are just the victims. It's a common misconception that women cannot rape males. Penile penetration is a requirement for a rape charge. The following justifications for the Penile Penetration Condition: A woman cannot rape a guy in a physical or biological sense. Forcing someone to penetrate you is not as severe as forcing someone to penetrate someone else.⁶ The implementation of gender-neutral laws would ensure that victims of sexual offenses and gender-based violence would all face the same

⁵ Ahlawat, S. (2023, December 29). *Gender neutral laws in India: Ensuring equality for all*. Subhash Ahlawat. <https://subhashahlawat.com/blog/gender-neutral-laws-in-india>

⁶ Aggarwal, A. (2023, June 27). *Need of gender neutral laws in India*. The Amikus Qria. <https://theamikusqria.com/need-of-gender-neutral-laws-in-india/>

protections and penalties. By eliminating discrimination from legal definitions and punishments, gender-neutral legislation will contribute to the development of a more equitable legal system.

Ensuring the efficacy of gender-neutral laws in India is a challenging task. We have to overcome certain obstacles. A significant obstacle is that these laws are not widely known. It's possible that some people are unaware of these regulations or do not realize how crucial they are. Another challenge is that sometimes, even when there are good laws, they are not used the right way. For example, in some places, people might not follow the rules about paying men and women the same, or they might not take complaints of harassment seriously. This can make it hard for people to get the fair treatment they deserve.

Additionally, it takes time to change ingrained mindsets. Many individuals are accustomed to the previous regulations, which treated men and women differently. They may find it difficult to adopt new perspectives where everyone is treated equally. The benefit of using gender-neutral terminology for a state's legal requirements is that it not only does away with all forms of discrimination based on gender and sex, but it also addresses problems that affect all genders equally without excluding any of them.

These problems include, among other things, the unfair accusations of harassment directed at men, the unequal compensation of female employees, the discrimination experienced by transgender patients undergoing medical treatments, etc. We can create a more gender-inclusive and understanding society where no one has to ignore injustices done to them because their gender is traditionally viewed as the perpetrator of the crime rather than the victim by eliminating all legal provisions that limit the scope of their application by specifying the gender of the parties.⁷

CURRENT SCENARIO RELATED TO GENDER-NEUTRAL LAWS IN INDIA

In 1996, the Delhi High Court stated “Men who are sexually assaulted shall have the same protection as female victims, and women who sexually assault men or other women should be liable for conviction as conventional rapists.”⁸ The Law Commission’s advice was sought

⁷ M. Bakshi,(2014). *The Constitution of India*, Universal Law Publishing Co., .

⁸ *Smt. Sudesh Jhaku v KCJ*, 1996

many times concerning gender-neutral laws when the 172nd Law Commission report stated that to implement such laws, the Criminal Laws need to be amended.⁹

We all know that the Preamble guarantees everyone equality in terms of status, opportunity, justice, and liberty. Article 14 of the Constitution states that every individual inside Indian Territory is entitled to equal protection under the law from the state. Art. 15 states that states cannot discriminate only based on sex. It goes beyond equality and, in line with Article 15(3), which provides the state the authority to establish any special law or regulation for the benefit of women, offers women more power through positive discrimination. Article 16 advances the goals of the Preamble by providing equal job opportunities for all.¹⁰ All these fundamental rights have made us believe that everyone is equally placed in their legal rights and duties, but in practice, it does not seem so.

The earlier Indian Penal Code (hereinafter referred to as IPC), is replaced with the new Bhartiya Nyaya Sanhita. However, both the laws seem to have the same stance on crimes like rape. Although the new law proposes neutrality in some instances like the offenses of assault or employing unlawful force to disrobe a woman and voyeurism have been declared gender-neutral under Sections 76 and 77 of the Bharatiya Nyaya Sanhita (BNS), 2023¹¹. This implies that, as either the victims or the offenders of these crimes, men and women are now subject to the same laws. Furthermore, the definition of “gender” now includes “transgender” under section 2(9)¹² emphasizing a broader approach against gender discrimination. Furthermore, the age of 15 years has been increased to 18 years of a woman for sexual acts by a man with his wife for not constituting it as rape (so marital rape is still not an offense under Indian Criminal System) provided under section 63; section 141 further entails gender neutrality making importation of boy or girl from Foreign country while under IPC the offense was qua a girl only.¹³

Thus, the new BNS tries to foster gender neutrality in many aspects but the provision against rape is still an untouched section. Marital rape is still not a crime under this new Law but it

⁹Roy, I. (2023, March 20). *Explained: Efforts for gender neutral rape laws in India*. IndiaTimes. <https://www.indiatimes.com/explainers/news/explained-efforts-for-gender-neutral-rape-laws-in-india-596319.html>

¹⁰ (PDF) GENDER NEUTRAL LAWS - A CRITICAL STUDY INDIA (researchgate.net)

¹¹ BNS_English_30-04-2024.pdf (bprd.nic.in)

¹² Supra note 10

¹³ Supra note 10

does away with adultery and unnatural sex. So the men are the offenders of rape on the one hand and are immune to marital rape on the other hand.¹⁴

CONSEQUENCES OF GENDER-BIASED LAWS

According to a recent UN report released in 2023, there has been no decrease in the amount of discrimination against women for the previous ten years, with nearly nine out of ten men and women globally still harboring these prejudices.¹⁵

When one has to consider marital rape, the law favors men. In “Recovering Subversion: Feminist Politics Beyond the Law,” Nivedita Menon highlights how most legal systems discriminate against women because lawyers apply patriarchal interpretations to the law. She claims that even while the law talks about equality for all citizens, its application overlooks the unfair ways in which women are positioned differently than men in terms of social, cultural, and economic status.¹⁶ When it comes to matters about women, judges must consider the “asymmetry of positions”. In her essay *Dominance, Suppression, and the Law*, Nandita Haksar argues vehemently that merely enacting legal reforms won't help women in need unless they are coupled with a political, socioeconomic, and cultural awareness of the causes of gender inequity.¹⁷ Because of this, the state and the law frequently overlook the individualized experiences of oppression and violence that women may have.

The Supreme Court in 2017 looked at the issue of marital rape and exception 2 of section 375 of IPC and stated: “Constitutionally females have equal rights as of male and no statute or act can take away those rights from females and if such statute or an act is passed regarding the same, it should be declared as null and void.”¹⁸ The Gujarat High Court has mentioned in this regard, “The total statutory abolition of the marital rape exemption is the first necessary step in teaching societies that dehumanized treatment of women will not be tolerated and that the marital rape is not a husband’s privilege, but rather a violent act and an injustice that must be criminalized.”¹⁹

¹⁴ Proposed BNS Bill omits provisions on unnatural sex, adultery, but fails to include marital rape, BNS Bill, provisions on ‘unnatural’ sex, adultery, marital rape, new crime laws in india (mathrubhumi.com)

¹⁵ New UN report reveals chronic bias against women over last decade | UN News

¹⁶ Menon, N. (2004). *Recovering subversion: feminist politics beyond the law*. Permanent Black.p.4

¹⁷ Sarkar, L. (1995). Women’s movement and the legal process. P.24

¹⁸ *Jain Independent D. Thought vs. Union of India (2017) 10 SCC 800.*

¹⁹ Marital rape an injustice, must be criminalised: Gujarat High Court | India News - The Indian Express

The United Nations Declaration on the Elimination of Violence Against Women defines violence against women as "any act of gender-based violence, whether occurring in public or private life, that results in, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty."²⁰ Given the foregoing, our nation's outdated and obsolete rape laws must be changed immediately to stop this brutality that occurs behind closed doors. No matter how close or how casual the victim-perpetrator relationship is, or how the attack happened, rape is still rape. The trauma associated with marital rape is comparable to that of other types of sexual assault. Therefore, it is imperative that we alter the public perception of marital rape through lobbying, public education, dispelling social misconceptions, lived experience research, and, ultimately, a productive conversation with legislators to enact the required legislation changes.

Similarly, the law relating to rape is also gender-specific and only men, according to both IPC and BNS, commit rape. Many have advocated against the same but those who support it, ardently believe that it is impossible for a woman,²¹ who is herself a subject of property of men, to commit rape on men, or probably they do not want to admit that their masculinity can be attacked by a mere woman. In cases like *State Govt. v Sheodayal*, issues of women ruining the modesty of another woman were raised²² under section 354 of IPC. Another landmark case *Priya Patel v State of Madhya Pradesh*²³ raised an important question of whether a woman can be a part of a gang rape where the Supreme Court made it clear that although bare reading section 375 of IPC provides that only males commit rape. However, section 376(2) provides that each member of the group, including a woman when she is one of them, must be considered to have committed rape "when one or more people act in furtherance of their shared intention" to commit rape. In another case, a two-judge bench stated that "preconceptions related to gender roles cannot be used as a foundation of law cannot bestow uneven advantages, and cannot burden anyone gender."²⁴

Although it is sad to see that victims of rape can be women only according to society and the perpetrators are always men. It therefore indirectly states that rape is not a crime when done by a woman on a man and therefore laws for the same are not enacted. But it must be understood

²⁰ The Impossibility of Marital Rape: Contestations Around Marriage, Sex, Violence and the Law in Contemporary India: Australian Feminist Studies: Vol 29, No 81 (tandfonline.com) p.255-272

²¹ (PDF) GENDER NEUTRAL LAWS - A CRITICAL STUDY INDIA (researchgate.net)

²² (1956) CrLJ 83 MP

²³ (2006) 6 SCC 263

²⁴ *Anuj Garg v Hotel Association of India and others* 2007

that sexual assault indicates domination over one caste or a group and therefore it is illogical to think that men or transgenders are never raped. In the case of *Vishakha v State of Rajasthan*²⁵, the Supreme Court issued guidelines for the protection of women's rights from sexual assault at the workplace but nothing of the similar sort is ever laid down by our judiciary for males and transgenders.

To make India's rape laws gender-neutral, senior lawyer and Rajya Sabha member KTS Tuli introduced the "Criminal Law Amendment Bill, 2019" to parliament in July 2019. According to him: *"Law needs to be balanced. The balance has been disturbed. All sexual offenses should be gender-neutral. Men, women, and other genders can be perpetrators and also victims of these offenses. Men, women, and others need to be protected."*²⁶

In dowry-death cases, suppose a woman dies during the first seven years of her marriage, a criminal case must be filed under s. 304-B, I.P.C. Suppose the investigation reveals even the slightest evidence that she was being exposed to cruelty and violence for dowry by him or any of his relatives. In that case, the death will be deemed murder for dowry, and the husband and any related parties will be sentenced to seven years in prison.²⁷

Similarly, under the Domestic Violence Act, if a woman is presumed guilty and she goes to the police station to file a first information complaint, alleging that her husband and his family have committed domestic violence in violation of the Domestic Violence Act and S.498A, I.P.C. It would be up to them to demonstrate themselves as innocent. Arrests were made before investigations in the majority of cases. The Supreme Court, however, saw the abuse and eventually corrected that arrests could only be done with a magistrate's approval.²⁸

Therefore, it is important to understand the consequences of not having gender-neutral laws in a country. The consequences can not only vary from socioeconomic factors to psychological factors but severe misuse of gender-biased laws by women is quite common. It is said that "law always favors the weak" but does this mean that men can never be weak and can never be assaulted? The Delhi High Court noted²⁹ that male sexual assault victims ought to have the

²⁵ AIR 1997 SC 3011

xxv. Mathur, A. (2019, July 13). *Bill to make sexual crimes gender neutral introduced in Parliament*. India Today. <https://www.indiatoday.in/india/story/bill-to-make-sexual-crimes-gender-neutral-introduced-in-parliament-1568504-2019-07-13>

²⁷ 91st Law Commission Report, 10th August, 1983

²⁸ Shobha Saxena, *Crime against Women and Protective Laws*, (2004), p.359

²⁹ *Ankur Mittal v State* 2018

the workplace can hinder career progression and job opportunities for male and transgender survivors.³³

ADDRESSING THE CHALLENGES IN IMPLEMENTATION OF GENDER-NEUTRAL LAWS

Implementation of gender-neutral laws instead of gender-specific laws arises out of the core requirement of gender equality particularly in an Indian society. With the aid of the Government's initiatives, many laws are enacted for the protection of women's rights, for instance³⁴, the Dowry Prohibition Act, of 1961, The Commission of Sati Prohibition of 1987, the Protection

of Women from Domestic Violence Act of 2005, The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act of 2013, and The Indecent Representation of Women (Prohibition) Act, of 1986.

Similarly, transgenders' rights are protected by The Transgender Persons (Protection of Rights Act) of 2019. However, today, there seem to be no laws specifically for the protection of men's rights, although the judges have time and again highlighted how men face dilemmas because there are no laws that can help them against the suits filed by women. The major concern has always been the misuse of laws by women causing harassment to innocent men.

The term "victim" in these laws should refer to both men and women, not just women as it does now. Every person victim of sexual assault irrespective of sex should be protected under the Nirbhaya Act. The Supreme Court of India can review the PIL of suffering victims and take appropriate action. Women should be sentenced to the same amount of time in prison if they are found to have filed a fake case or to have lied. If this is the case, then the woman will be punished equally and mercilessly. In this way, the number of fake cases will certainly drop once the word gets out.

The judiciary further demands that the legislature amend, modify, or repeal any law that is abused and subject to the abuse of the legal system, if necessary. For example, The Dowry Prohibition Act makes giving and receiving dowries illegal, but no one has been punished for

³³ Supra note 22.

³⁴ Laws Related to Women | National Commission for Women (ncw.nic.in)

giving dowries to date. The Malimath Committee Report suggests that the repeated abuse of anti-dowry laws may result in new forms of legal terrorism. The most egregious abuses are related to the provisions of the I.P.C. that are related to dowry. Since the dowry prohibition act is undoubtedly also being abused, it can be claimed that all laws are susceptible to abuse and misuse.³⁵

Gender-neutral laws ensure equal protection for all individuals, recognizing that males and gender minorities can also be victims of gender-based crimes. These laws challenge stereotypes that label males as inherently violent and females as always vulnerable, allowing the legal system to address specific behaviors without gender bias. By considering intersections with caste, religion, class, and sexual orientation, gender-neutral laws provide a holistic approach to addressing discrimination.³⁶ They encourage reporting by making it safer for all victims to come forward and help prevent the misuse of gender-specific laws. Sexual violence can happen to anyone, regardless of age, sexual orientation, or gender identity.

The following suggestions may help realize gender-neutral laws in force in a gender-specific society:

1. Make gender-neutral modifications to Sections 354C and 354D so that they hold both men and women responsible for voyeurism and stalking. Examine the suggestion made by the Justice Verma Committee to use "whoever" for offenders.³⁷
2. To ensure fairness for both parties, implement the procedures outlined in Section 125 of the CrPC to validate claims of financial dependency and guard against unfounded allegations.
3. Change the Sexual Harassment of Women at Workplace Act of 2013 so that all workers, regardless of gender, are covered. Offer awareness and training campaigns regularly.³⁸
4. Change the definitions of sexual assault and rape to encompass people of all genders

³⁵ JETIREB06158.pdf

³⁶ <https://blogs.lse.ac.uk/humanrights/2023/08/03/disability-rights-and-gender-inclusivity-why-the-indian-government-should-revisit-their-disability-policies/>

³⁷ Aggarwal, A. (2023, June 27). *Need of gender neutral laws in India*. The Amikus Qria. <https://theamikusqriae.com/need-of-gender-neutral-laws-in-india/>

³⁸ Supra note 36

and offer support services to all survivors.³⁹

5. Replace gender-specific terminology with "spouse" in marriage-related laws to promote equal protection and justice for both men and women. Amend acts like the Domestic Violence Act, 2005, and Section 498A of IPC to be gender-neutral.
6. Present maintenance and alimony rules frequently ignore the financial needs men may have after a divorce, assuming instead that women are economically dependent on men. Gender-neutral laws will ensure equity regardless of gender by evaluating financial support based on each person's unique requirements and circumstances.⁴⁰
7. Because moms are regarded to be better parents, Indian child custody laws frequently benefit them. Gender-neutral laws would encourage shared parenting and equal chances for both parents to form strong bonds with their children by reorienting the attention to the welfare of the kid and parental abilities. Similarly, gender disparities in inheritance are perpetuated by religious personal precepts that frequently favor male heirs. Equal rights for everyone would be guaranteed by gender-neutral inheritance rules, which would also challenge patriarchal customs and advance equitable wealth distribution. India may promote equality, and individual freedom, and challenge prevailing gender conventions by enacting gender-neutral family laws, which will encourage a cultural shift toward actual gender equality.⁴¹
8. Review all existing laws to identify and amend gender-specific provisions. Engage with experts and the public for diverse perspectives and recommendations.
9. Provide specialized training for judges and legal professionals on gender-neutral laws and the importance of impartiality. Establish gender-neutral legal precedents to reinforce equal justice.
10. The Transgender Persons (Protection of Rights) Act, 2019, is criticized for its flawed definition of 'transgender,' which inaccurately includes individuals with intersex

³⁹ Prime Legal. (2024, February 18). *Revolutionizing rape laws in India – navigating gender neutrality for a just society*. <https://primelegal.in/2024/02/18/revolutionizing-rape-laws-in-india-navigating-gender-neutrality-for-a-just-society/>

⁴⁰ Aggarwal, A. (2023, June 27). *Need of gender neutral laws in India*. The Amikus Qriac. <https://theamikusqriac.com/need-of-gender-neutral-laws-in-india/>

⁴¹ Supra note 39.

variations.⁴² This conflates biological sex with gender identity, as transgender individuals may or may not have intersex variations. Additionally, Section 15 of the Act, which outlines government responsibilities for providing health services to transgender individuals, fails to address the needs of transgender people with disabilities.⁴³

11. There should be adherence to the Handbook on Combating Gender Stereotypes. Avoiding harmful gender stereotypes, especially those about women, in judicial decision-making and writing is crucial. Stereotypes are often internalized due to societal, cultural, and environmental conditioning, making them difficult to recognize and avoid. However, challenging and overcoming these stereotypes is essential for creating an equal, inclusive, and compassionate society.⁴⁴

12. Lastly, implementing the Uniform Civil Code and adhering to the Directive Principles of State Policy will help in the better applicability of gender-neutral laws.

CONCLUSION

If the laws are reformed in a manner that does not highlight biases, that is not sexist and which does away with stereotypical mindsets, will the question of whether gender-neutral laws will lead to abrogation or preservation of rights still arise? With the implementation of gender-neutral laws, the equality that has been chased for decades will automatically come into existence. The notion that every time it's the women who need to be protected or who is always the victim must be changed so that any chances of misuse of laws are prevented against the innocent. The "maleness" of the law must be done away with. Only when the law does not have any gender of its own, it can look upon the victims without a biased perspective. Both femininity and masculinity are societal constructions. Only by removing these conceptions can perception be altered. A reading of the Constitution grounded in constitutional morality, as opposed to personal patriarchal views, is critically needed to achieve gender justice.

⁴² Koopman, S. (2017, February 8). *Intersex vs transgender: Here's what you need to know*. HuffPost UK. https://www.huffingtonpost.co.uk/entry/intersex-vs-transgender-heres-what-you-need-to-know_uk_5c7e97eae4b078abc6c129ae

⁴³ sprf.in - Examining the Transgender Persons (Protection of Rights) Bill, 2019

⁴⁴ Handbook - Final copy (sci.gov.in)