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LACK OF GENDER NEUTRALITY ON SEC CRIMES

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ABSTRACT:

The following article throws light on law relating sex crimes such as rape, stalking and harassment in relation to Code and Criminal Act of 2013 and Indian Penal Code, is a crime that is faced by such a large portion of society at a daily basis that, it should not be treated by having a blind side towards it. The article specifically focuses on the lack of laws to be provided for males, in the society who have been victim of such crimes and some of the gender biased law that exist in Indian legal system.

INTRODUCTION

Sexual Harassment is a term that has been defined by the dictionary as “comments about sex, physical contact, etc., usually happening at work, that a person finds annoying and offensive” and is one of the issues that is faced by almost everyone in their day to day life. There has been an exponential growth, in the number of reported sexual harassment cases in past few years. Stalking is described by the dictionary as, “The crime of following and watching somebody over a long period of time in a way that is annoying or frightening”.

A survey by National Crime Record Bureau shows that, the number of cases of stalking in India being report has doubled as compared from that, of the year 2014 to 2018. India is a diverse country in terms of the religion and ideals that, its citizens abide with the legal system and is able to protect the interest of its entire citizen with the heavy focus on equality.

But being said in the current issues of harassment and other sex crimes the legal system holds a bias, based on gender as most of the major topic lack the guidelines or mentioning of male gender in it. The examples for such situation can be found in the Indian Penal and Code and Criminal Act of 2013. Under Section 375 of the Indian Penal Code the word “rape” has been

defined as, “an act that has been committed by a man who has committed sexual intercourse with a woman without her consent”.

While the following law plays a crucial role in providing justice, what is evident is the lack of mentioning of males who have been rape to plead for justice or the fact that it considers male as the only offender. This hampers the accuracy of any of the survey as the male victims haven't experienced the empowerment, that would provide them with the ability to spread their voice to the public as the lack of any statute to help them, suppresses their voice. While Criminal Law (Amendment) Act of 2013 tried to enhance the laws widening its field by touching on topics such as: stalking, acid attack, harassment, voyeurism and more by doing so it also provided men with certain rights but still it fell short in many areas that should not have been overlooked by the law.

Under the Act, Section 354D throws light on stalking as the act of “following a woman with the intent of gaining personal interaction despite there being clear signs of disinterest by the women”.

But it does not take into consideration that men can also be victim of stalking. While there is a lack of an Indian survey, one survey held in USA states that, ¹1 out of 19 men face stalking, which states that there are a massive number of individuals who are suffering, when you consider the population that is covered by the male counterpart.

Under Section 354 A talking about, sexual harassment as an act committed by a male by causing physical contact or making sexual remarks but by mentioning the act being committed by male it makes the law narrower and disregards the male who had suffered from harassment. In a recent movement me-too, which had female talking about the harassment that they faced there was 37 percentage of men claiming that if a similar movement was done for men there will be plenty of stories that come to surface which only goes to show that the problem is faced by both gender rather than being gender specific.

So, the question that may arise is whether there exists any law that help the male counterparts in terms of offence relating to sexual assault or harassment in any form. One of the cases where a man can reach out to the court for justice is being sexually harassed by any form of technology communication.

¹ Bert H. Hoff, J.D, the National Intimate Partner and Sexual Violence Survey and the Perils of Advocacy Research, 1 ISSN: 1095-5240, (2012).

The Information Technology Act, 2000 Section 66A is a gender-neutral law that prevent sexual harassment through the technological means of communication which are offensive in nature and are false statement. Section 377 of Indian Penal Code provides justice against intercourses that are of against the order of natural against any man, women or animal. This may serve as a remedy to individuals but due the limitation by the definition of the law it has a narrow meaning and may not be applicable to every situation that is may surface.

Criminal Law (Amendment) Act of 2013 also provides remedy to men as it treats acid attack or attempt of acid attack as a gender-neutral law under Section 326A and Section 326B respectively and punishes the offender accordingly.

The Indian legal system can break the notion that has been seen since pre-independence days by legislation of new laws for the protection of men similar to The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013 which deals with the cases of sexual harassment in workplace with the specifics of the conciliation and the provision for maintaining the reports of sexual harassments that occurred in the workplace which can be called upon if there required or by amending the pre-existing laws to make them focus on gender neutrality making the law similar to what can be seen in the United States of America, which classify the offender as whoever instead of a specific gender. Such an act will allow those who have suffered to finally gain some peace of mind while also allowing those who caused any offence to be punished and thereby leading our country to take a step closer to achieving safer society for its entire citizenry where all may face the law and have to face justice.

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