

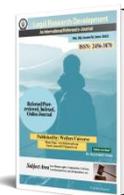


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Meninism and Preconceived Ideology with specific Indian Dimension of Human Rights in Today's Changing Globalized Scenario: A Critical Appraisal

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KEYWORDS

Abuse of Law; Equal rights; Gender justice; Human rights of men; Men's human rights; Human rights for men; International human rights of men, Human rights of men in India.

ABSTRACT

Men and Women both are the integral part of nature and integrant with each and another for wholeness to ensure the existence and survival of this human life in contrary time also for revitalization and revival in this mortal world. When time is changed then human conduct also changes consequently some women are abusing the law against men resultantly human rights of men are being violated very seriously in the gravest manner which is the contravention of life, personal liberty and security of men. The deprivation and endanger of life, personal liberty and security of men is in very plight conditions under exceptions in India. To prevent the abuses of law, preconceived ideology, predefined consequences against men in the protection of human rights to secure ends of justice for men is now need of hour and necessity. This research paper deals with human rights of men in today's changing scenario. It has specially been emphasized on the preconceived ideology of people against men on this basis the discrimination and decision are taken prejudicially. Some laws also are in existence due to this preconceived ideology which is not justified in today's changing globalized world under rule of law and democratic society, subjecting to exceptions. This preconceived ideology and its predefined consequences against men are inconsistent with and in derogation of human rights, abridging and taking away the rights of men. It reveals the Quantum of doctrine of protective discrimination for women against men, bearing in mind the principle of reasonable classification. When any person says or justifies that the particular thing is right or wrong, the same is stated on the basis of foundation root or quantum of knowledge of that person thereby the person has the understanding and sensibility accordingly and consequently, the person acts. But this research article does not include misogyny. It is not against the feminism. The history gives the evidences about the untold sorrow of women for the contravention of their human rights. This research article also is in favour of women empowerment and women human rights but no innocent men be sentenced. Everyone has inherent human rights by birth including human rights of men. Human rights for men are also available as per laws in today's changing globalized world.

"...To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.."

-Preamble of UN Charter

Introduction

Meninism means the rights of men on the basis of equality and inherent dignity. In today's democratic society, men are the victim of law abuses by some women resultantly the life and liberty of men is in danger other than some exceptions. Justice is being affected on the basis of preconceived ideology to get its predefined consequences against men. All human being has accessibility of human rights including men equally without any distinction under some exceptions as reasonable classification, protective discrimination and others. Women has the availability of special rights and privilege under the principles of reasonable classification¹ and protective discrimination but such things should not have such an extension by which the inherent dignity of men, fundamental freedoms and other human rights be eclipsed and violated consequently thereby the deprivation and denial from the life, liberty and security of men is on its extreme level. The quantum of above principles must have the limitations in today's time because it is now has become need of hour due to abuse of process of law. Equal human rights are available for men and women otherwise than some exclusion. Now

naturally the questions come before us that Whether men has the human rights if yes then Why the deprival of life and liberty of men has become very common on the ground of preconceived ideology to get its predefined consequences? If no then whether the men are not the human being?

2. Quantum of doctrine of protective discrimination for women against men

The law which has the inconsistency, derogation, extension, taking away, abridgement of fundamental rights as human rights then to the extent the law shall be void.² Women empowerment and its implementation is the mandatory necessity of democratic society but the same must be done, balancing the men's life and liberty due to abuses of process of law. For the protection and preservation of a person's human right another person's human right should not be violated. Men and women both are mutually depend on each another. The special rights and privileges must be conferred on women by way of doctrine of protective discrimination³, reasonable echelon and in the course of Nature but due to the unrequired political reasons, contrary intensions as to win elections, to contest election, to come in power, selfishness and others, the unlimited rights and privileges should not be furnished by making such laws which are against the men's human rights. The quantum of doctrine of protective discrimination for women against men

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should have reasonable limitations in accordance with the essence of today's changing human conduct and world, bearing in mind only preconceived ideology to get its predefined consequences, the special laws containing the special rights and privileges for women against men should not be enforced. It has been observed that on the basis of historical factual matrix which reveals that certain persons committed crimes and the acts against women on these grounds the present matters are being dealt and measured it is right the same was wrong but the persons who caused such things who were different and now in recent time and circumstances the punishment of the persons who were in history should not be given to recent persons are alive as a form and consequence of pre mind set and premeditation that only men can do it, women cannot do it because now the human conduct changed on account of time, circumstances and necessities. Such kind of preconception and predefined consequences should not be borne in human mind because it the very serious violation of human rights of men. These kinds of things should not be in existence for men and also everyone. Everything has pros and cons therefore it can naturally not be guaranteed that the women shall not abuse the laws, the same is also applicable to all sections of people namely any one may abuse the law not only in women case but some women's protection laws are very sensitive and includes the most rigorous punishments if any innocent person is being alleged by a women then the person shall under compulsion to face very serious legal consequences on the basis of prima facie practice but it may be that after due examination or trial the innocent one be declared innocent by the court but the time which has been spent which is never returnable for these cases to innocent persons has the remedies to take legal actions against such law abuser but the time spent thing is irreparable and unascertainable to measure so to proceed and to compel the person only the ground of statement or allegation on affidavit should not be so compelled to face very serious and strict legal procedures, the separate inquiry or investigation as the case may be should be held for such cases by Judicial magistrates or Judges and these kind of case should also be categorized as abuse of process of law and the trial should be held in a separate Court to ascertain the truth or genuineness of the statement or allegations which be founded on evidences due to more to more abuses resultantly the innocent persons may falsely be implicated as to several case are the examples and illustrations, Apex Court and other Higher Courts of India have also expressed abuses of law and numerous cases with preventive directions and guidelines delivered in this regard. *Arnesh Kumar v. State of Bihar and Ors.*⁴, *Kahkashan Kausar Sonam and Ors. v. State of Bihar and Ors.*⁵ "After twenty five years (25 Years old case), the acquittal was passed of a man in the case of marriage promise and cheating.⁶ (After twenty one Years), the Acquitted Accused by the Trial Court was convicted by the Hon'ble Bombay High Court on 22 December, 2018 in the case of Rape- This occurrence was happened on 01 December, 1996, Nasik. The Trial Court passed the acquittal in July, 1997, after 21 years the Bombay High Court on 22 December, 2018 has convicted for Rape^{7,8} And many others cases.⁹

3. Meninism and Preconceived Ideology with specific Indian dimension of Human Rights in Today's Changing Scenario

Preconceived means the idea or opinion formed before having the evidence for its truth or usefulness¹. It is said that India is a man dominant country. But the most of people have the pre-mind set and predetermination for certain matters as preconceived ideology to get its predefined consequences against men which is very gravest contravention of human rights of men in today's fastest changing democratic society where everyone has right to life with dignity as a human right but in certain cases of men it has become adverse. The implementation of law is being processed by human on the ground of preconceived ideology to get its predefined consequences against men by reason of it the justice is also being prejudicially affected. Some cases are being processed or concluded only on the basis of sole testimony of

Women.¹⁰ Certain cases are being taken into cognizance by the Courts on the ground of prima facie concept by admitting affidavit or statement on oath¹¹ whereas to produce false affidavit or give false statement is a punishable offence¹² to impose false charges on the person to injure without just or lawful ground by the institution or making the criminal proceedings initiate is also punishable offence¹³ and other remedies also are available but at once to harass the innocent persons, the false affidavits are being produced in the court consequently the legal proceedings or inquiries or trial are initiated and the persons are compelled to face the same for a long time along with it, the time, money, man power and others are also consumed so the required preliminary or required inquiries or investigation should be held before conduction of trial in the court to get truth and genuineness except some exceptions. The large pendency of the cases of one of main controversial issue in India approximately total 41605652 cases is pending¹⁴. The falsified proceedings shall take place after finality of the case unless and until the innocent person is being compelled to take part in the procedures mandatorily on the basis of fabricated and false story or matters under some exceptions, the cases stretch for a long time on account of the large pendency of cases and shortage of judges, other staff and others also which corollary shows that this is the serious and gravest violation of life, personal safety and liberty of men and as well as other human rights. If anyone who abuses the process of law resultantly the legal proceedings against such abuser may be initiated for the false charges with intent to injure without just or lawful ground.¹⁵ Anyone who puts in the fear of someone to cause injury or dishonestly commits inducement and put in the fear for delivery of any property or valuable security or sealed or signed which is convertible in any valuable security¹⁶ and the threat of false accusation of any offence¹⁷ these things are punishable offences. For the prevention of abuse of process of law or in case of otherwise to ensure ends of justice, the victim may move to the High Court.¹⁸ But In addition to all heretofore contained, in accordance with the essence of time and circumstances, in today's changing world, the immediate endeavours are required to take which is need of hour for the prevention of abuse of law on account of increasing false cases day by day intentionally and dishonestly because no person can unnecessarily be compelled to face the trial or legal proceeding on the basis of false charges or allegations and fabricated factual matrix. It is the deprivation of life, liberty and security of person in a very serious way as the gravest violation of human right.

4. Conclusion

The human rights have equally been conferred on men and women otherwise than some exceptional matters¹⁹ which are justified but for the protection and preservation of one person's human right another's human right and life, liberty and security cannot be endangered, deprived and denied. In some cases, the International instrument relating to human rights evidently reveals the equal human²⁰ rights of men and women. The laws should be gender neutral excluding some exceptional cases. The women empowerment, privileges, rights and others should not so excessive and violative and endangering of human rights of men, an innocent man should not be criminalized, due to all above, the criminalization of men should not be done in democratic, society the same should be balanced as needed in according to time and circumstances because men and women both are complement and completion of each another. The prima facie presumptions or assumptions at the very initial stage with the preconceived ideology to get its predefined consequences against men should not be made that this particular act may surely be initiated and incepted only by men and with it, such a treatment full of preconceived ideology to get its predefined consequences against men should not be given in today's changing world of abuses of law whereas it should be independent and fair. The physiology of human brain as preconceived ideology to get its predefined consequences against men should not be borne in mind for the enforcement of laws to deliver the justice by people and society.

“Speedy justice must be delivered without having violations of Human Rights and its Law with respect to aforesaid slept Governments must be wake up now with vigilance mandatorily because sovereignty²¹ is found in people for welfare of people.”²² “Human Rights & its Law must be included in the syllabus as compulsory subject of Schools, Colleges, Universities and in other required institutions or organizations or establishments and Human Rights & its Law must be taught or imparted education, knowledge and literacy as well as above also to Employees, workers and all persons from time to time.”²³

5. Suggestions

- 5.1. The cases which have the doubt that the cases of abuse of process of law as “abuse of Law or process” or “abuse of Justice” then should be categorized separately.
- 5.2. The separate mechanism namely Judicial Courts should be established to inquire in to or conduct the trial in these kind of cases.
- 5.3. The required inquiry or investigation should be held by Judicial Magistrates of Judges.
- 5.4. The separate law should be enacted to deal with the abuse of process of law cases.
- 5.5. The Conception of ‘Time Bound Delivery of Justice’²⁴ should be incorporated in the Law to ensure the speedy justice.
- 5.6. In the matters of abuse of process of law, in relation to Jurisdiction, the special laws be enacted and the jurisdiction of Court be ascertained by law at a specific place by the consolidation of all cases
- 5.7. The cases of abuse of process of law should be dealt with very sensitively, minutely and seriously, subjecting to the depth examination and scrutiny with very specific state of mind to ensure fair delivery of justice.
- 5.8. No person can unnecessarily be compelled to face the trial or legal proceeding on the basis of false charges or allegations and fabricated factual matrix. It is the deprivation of life, liberty and security of person in a very serious way as the gravest violation of human right. The required things should be done for it as expeditiously as possible.
- 5.9. When any person says or justifies that the particular thing is right or wrong, the same is stated on the basis of foundation root or quantum of knowledge of that person thereby the person has the understanding and sensibility by reason of different time,

circumstances and others of life of human accordingly and consequently, the person acts therefore such created foundation root or quantum of knowledge of people should be improved, reformed, enhanced, enriched and others as required and as the case may be.

- 5.10. The preconceived ideology to get its predefined consequences against men should not be and the justice delivery and other legal proceedings conduction should also not be affected prejudicially on this basis whereas the same should be independently, fair and others as connected.

Endnotes

¹ Art. 14, the Constitution of India (1950).

² Id. Art. 13.

³ Id. Art. 15 (3).

⁴ Cr. Appeal no.1277/2014 Special Leave Petition (SLP) CRL no. 9127/2013, delivered on 02 July, 2014.

⁵ Cr. Appeal no.195/2022 Special Leave Petition (SLP) CRL no. 6545/2020, delivered on 08 February, 2022.

⁶ The Times of India, New Delhi, dated 23 September, 2018 pp 09

⁷ Id. pp 01 & 10

⁸ Kumar, Ramesh (2020). *Human Rights Law in India*: Lap Lambert Academic Publishing SIA OmniScriptum, 1st ed. Latvia, European Union.

⁹ Kumar, Ramesh (2013). Theory of Determination, Violation and Protection of Human Rights. *Thematic Journal of Law (A Peer-Reviewed International Research journal)*, Vol.3., Issue 1. , pp 20-27.

¹⁰ Sec. 32 (2), the Protection of Women from Domestic Violence Act (2005).

¹¹ Sec.164 (5), (5A), the Code of Criminal Procedure (1973).

¹² Sec.193, the Indian Penal Code (1860).

¹³ Sec. 211, the Indian Penal Code (1860).

¹⁴ National Judicial Data Grid (NJDJ) retrieved on 28 May, 2022 at 3:41 Pm from https://njdg.ecourts.gov.in/njdgnew/?p=main/pend_dashboard

¹⁵ Sec. 211, the Indian Penal Code (1860).

¹⁶ Sec. 383, the Indian Penal Code (1860).

¹⁷ Sec. 388 and 389, the Indian Penal Code (1860).

¹⁸ Sec. 482, the Code of Criminal Procedure (1973).

¹⁹ Preamble, Art. 3,2,8,10,12 Universal Declaration of Human Rights (1948).

²⁰ Preamble, Art. 1 (3), 13 (b), 8, 55 (c), 76 (c), UN Charter (1945).

²¹ The Preamble, Constitution of India.

²² Kumar, Ramesh. (2016). A Critical Appraisal of Human Rights Law with Special Reference to Constitution of India. *Legal Research Development (An International Referred e-Journal)* Vol.1.Issue II Dec. 2016. 55-64. doi: <https://doi.org/10.53724/lrd/v1n2.06>.

²³ Kumar, Ramesh. (2016). A Critical Appraisal of Human Rights Law with Special Reference to Constitution of India. *Legal Research Development (An International Referred e-Journal)* Vol.1.Issue II Dec. 2016. 55-64. doi: <https://doi.org/10.53724/lrd/v1n2.06>.

²⁴ Kumar, Ramesh. (2017). A Critical Appraisal of Law relating to Human Rights with Special Reference to Enforcement System. *Legal Research Development (An International Referred e-Journal)* Vol.1.Issue III March 2017. 69. doi: <https://doi.org/10.53724/lrd/v1n3.06>.
