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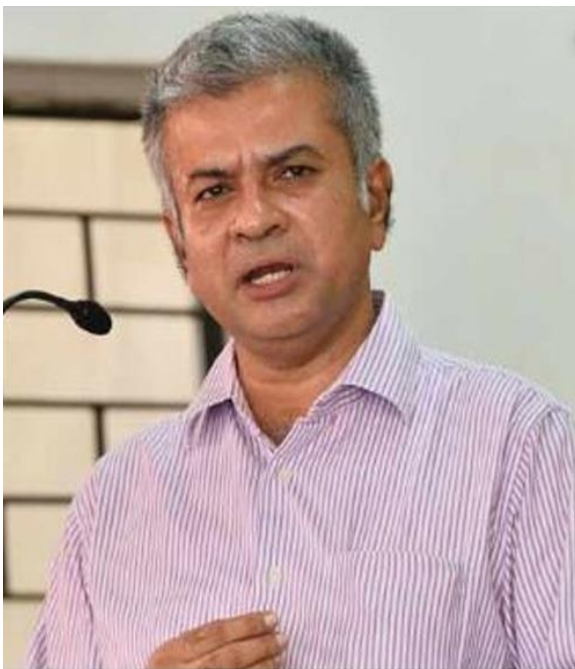
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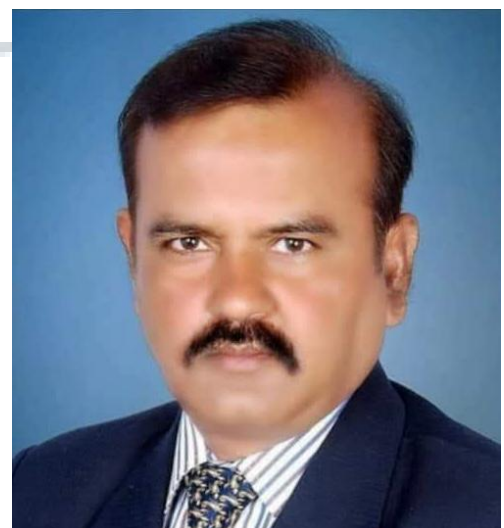
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More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.

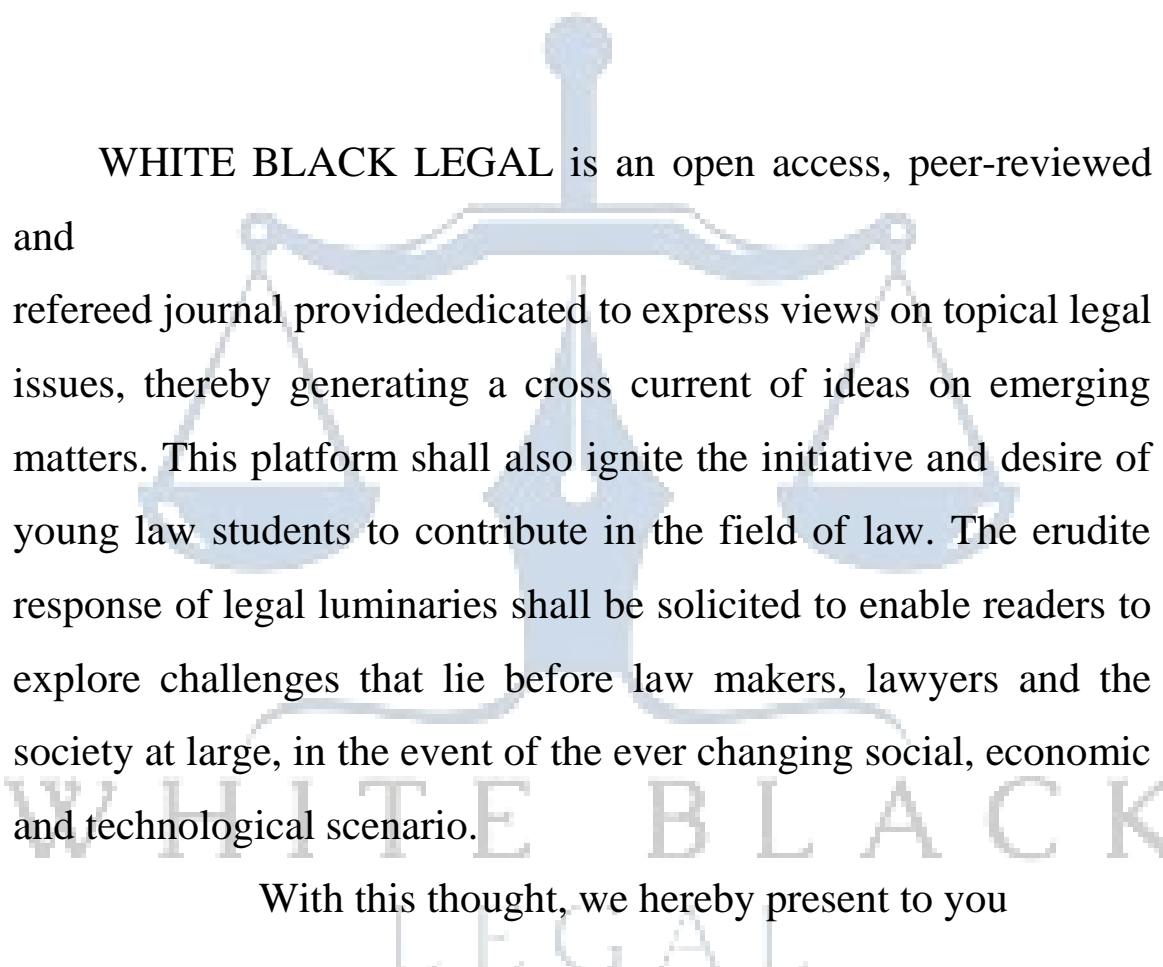


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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **GENDERED PERSPECTIVE OF LAW**

AUTHORED BY- AKSHARA GUPTA

BA(LS) HONS.2023

## ***ABSTRACT***

Various issues like societal implications, class, race, sex and gender define the intensity of crime and justice associated with it. The misconstrued beliefs that females do not commit a crime, rather a heinous crime on one hand and associating them with all the crimes related to their body on the other is ironical. This paper aims at establishing the dichotomy of how law is represented with a woman the 'Lady Justice' balancing the law but how in reality law is only assumed to be a gender free zone with it all characterized by masculinity terrain.

It aims to establish that how women find painful the same thing a man might found pleasurable. It offers a relationship instituted between gender and law by the society over decades and patriarchal nature of the society. How the established Rule of Law caters itself to be gender determined. Some legal reforms might establish a better consequence for women then others but to what extent. The difference here is established between the reform and transformation. A reform cannot transform the entire system ingrained. We simply do not acknowledge or address the grave exclusions faced by women in a society to such an extent that they are not even expected to commit a heinous crime like murder.

Crime has been categorized differently for men and women for instance concepts like pornographic institutions for that matter which men might find offensive to be practiced in a society but at the same time they find it stimulating but women might feel ignominious and demeaning for the same. A woman does not wish to suffer all the petrifying hatred she receives as a part of their profession of brutalizing their bodies which men are completely oblivious of as to what external conditions women face in a society – the pain, trauma, and torture.

**KEYWORDS-** Gender, Law, Reform, Transformation, Exclusion, Crime

## I. LAWS AND LEGISLATIONS IN THEIR GENDERED VIEW

Be it the gendered nature of the legal terms or the female symbol of justice, Law does not recognize the gendered subject as different but seeks instead merely to guarantee a level of individual autonomy from interference by the State or from others.

When examining the greatest ideals and normative norms of contemporary international, and national law, a gender-competent approach is necessary. A thorough understanding of social reality, as well as gender-competent political, legal, and economic decision-making and public policies, will all benefit from increased awareness of gender equality issues and the creation, interpretation, and application of legislation that is more fair, just, and equitable.

### *i. The gender politics of Legal Language*

Courts, termed as Interpreters of law are largely guided by the language used in legislation. The patriarchal aspect of language is showcased as bias in the legal judgements. The broader push of gender sensitivity has raised the urge to trace the nuanced errors in the legal system. The system which has been written by men for ages, shaped by men, defined by men, interpreted by men, and have always ostracized the 'others' of their community. During the time of independence, when the constitution was being framed out of the 389 members only 15 were women. The men of law have been considerate only about their own world and not to worry for the problem of 'others' as a belief imbibed that the challenges faced by others are natural and inevitable. Insofar reasoning the male perspective of law images and experiences are frequently applied to norms and law privileged men of the society, who observe socialization patterns, experience, associate rationality and obstruction from their own social life to associate with law. then the claim that legal reasoning and language are patriarchal also has a normative component. For instance, the standard for self-defense law considers how a reasonable person would respond overall that is how a man would react to self-defense scenarios or cases of battery and the model for labor law is also a male worker in the The Industrial Disputes Act, 1947. Male reasoning are associated to law to such an extent because economically, politically and intellectually only they have had the privilege to succumb to their lives as the new norms. Their thinking is dualistic and rigid, thanks to women as they never have to be concerned about work and family as complimentary situations. As a result, gender-neutral language adoption is widely required. That is the reason the Punjab and Haryana High Court has called on the Union Government to replace phrases like *Ex-servicemen* that undercut



gender inclusivity and fail to recognize the great contribution of women in the armed forces with language that is inclusive of both genders. This approach is in line with a larger movement in recent years to include gender sensitivity into legal and administrative discourse.<sup>1</sup> All legal language must continue to be inclusive. The Supreme Court recently rejected a petition to remove male pronouns from the Indian Constitution, citing the difficulty and impossibility of amending past laws. This is an example of how this can be observed. Therefore, it would be wiser to include inclusive language utilizing the pronoun "she" in measures like the DPDP Act, 2023. Although the Act's recognition of women is valued, referring to them as "she" or "her" could just transfer the burden to the other gender—that is, the women.

Comprehending the rationale behind the discourse on gender sensitivity in language and the complex ramifications thereof is crucial. Our thought processes are significantly shaped by language, and this has a big impact on the judgments we make. Gender neutral language, according to critics, diverts the reader's attention from more important legal matters. Furthermore, forcing someone to adhere to a particular language usage standard is culturally insensitive; these modifications are inelegant and raise the expense of regulation.

At the same time law is a powerful discourse, it pronounces the cumbersome thought of what is right and what is wrong. Law has the power to silence or alternative meanings. For example, the terminology used in the infamous Baby M case of 'surrogate mother' rather than 'birth-mother' or 'gestational-mother' expresses a preference for viewing the situation contractually. This terminology removes the birth mother from the experience of pregnancy and simply introduces a contract for the child, simply the experience of pregnancy and nurturing turns into a male participant in a business matter.<sup>2</sup>

Even while these reforms are positive, much more has to be done, as the Aparna Bhat v. State of Madhya Pradesh case shows. Judge Bhat addressed the "entrenched paternalistic and misogynistic attitudes" in rulings and orders pertaining to cases of gendered sexual violence in this case. She also established guidelines for progressive judgment writing, suggesting that all judges participate in gender sensitization training sessions and receive guidance on appropriate language usage.

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<sup>1</sup> (Krishania and Bansal 2024)

<sup>2</sup> (Conaghan 2009)

ii. *Laws & cases associated to the concern*

Another concept is associated with addressing *Gender* as only with one gender that is a woman. Gender as a term is considered a statement related to only sexual assault against women, discrimination against women. Atrocities associated to the LGBTQ community or for that matter heterosexuals those who do not categorize themselves as cis male or female are still trail blazing. Simply substituting the pronoun of “he” with “she” does not address the diverse problem of addressing the need of gender identities. Gender neutral language is intricately associated with gender neutral laws as well. There has been a dire conspiracy regarding Section 375 of the IPC which has been replaced with Section 63 of the BNS, 2023 which should consider *rape* as gender neutral as well as its punishment in section 64 of the BNS to make provision gender neutral to promote and ensure protective rights for male and third gender victims of assault. Changes relating to sexual orientation particularly relating to women have moreover been presented in property laws over India. In 2021, the Uttarakhand Government revised the Uttarakhand Zamindari Abolition and Land Reforms Act, stamping it as the step to begin with Indian state to provide co-ownership rights to women. The Hindu Progression Act of 1956 was revised in 2005 to bestow break even with rights to girls in joint Hindu family property.

In *CB Muthamma v. Union of India* CB. Mutthama the first female IFS officer challenged the Foreign Service Rules, 1961 which violated the constitutional right under Articles 14 and 16. The regulations at the time limited the foreign postings that women officers may hold and placed restrictions on their eligibility. Additionally, getting married would have prevented them from being promoted.<sup>3</sup>

Another case where woman was described as one with “doubtful reputation” thereby not declaring a police inspector guilty of rape in State of Maharashtra and *Another v. Madhukar Narayan Mardikar* (1991) showcases the assumed character of a women in the courts. The supreme court in this observed,

*“Even a woman of ‘easy virtue’ is entitled to privacy and no one can invade her privacy as and when he likes. So also it is not open to any and every person to violate her person as and when he wishes. She is entitled to protect her person if there is an attempt to violate it against her*

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<sup>3</sup> [Tewari, Anadi. 2024. https://www.barandbench.com/columns/litigation-columns/international-womens-day-24-supreme-court-judgments-womens-rights-india.](https://www.barandbench.com/columns/litigation-columns/international-womens-day-24-supreme-court-judgments-womens-rights-india)

*wish. She is equally entitled to the protection of law. Therefore, merely because she is a woman of easy virtue, her evidence cannot be thrown overboard."*<sup>4</sup>

The case popularly known as the Dance bar case also accentuates the following concern where the Government of Maharashtra had added section 33A and 33B vide Bombay Police Amendment Act, 2005 which prohibited any kind of dance performance in an eating-house, permit room or, beer bar, this was stated in section 33A of the aforementioned Act, but there was an exception made for situations where the dance performance was held in a theater or a club (where entry was restricted to members only). This resulted in a limitation on the locations where dance performances could take place, meaning that they could only be held in three-star hotels and up; however, they could not be held in one- or two-star hotels, as stated in section 33B of the Act.<sup>5</sup> Now if we analyze this case we see categorically that the rights of women are annulled violating their fundamental right guaranteed under Article 14, 19(1)(a), 19(1)(g), and 21 of the Constitution of India. Due to the ban 75000 women became unemployed simply downtrodden and deprived of their rights as the sole bread earners of their family in the name of their dignity. And the 'class differentiation' again plays a significant role behind the ban wherein it is employed only till three stars hotels, ostensibly concluding that four star and five-star hotels can perform these obscene activities, quite ironical in its approach.

In *Aparna Bhat and others v. State of Madhya Pradesh and others* (2021) exposing the ludicrous approach of justice towards women the Madhya Pradesh High court asked the person accused of sexual assault to get Rakhi tied on him by the victim as a condition for grant of bail, thereby turning the molester as the brother by judicial mandate.

The *Two finger test* prevalent in our country before it was banned in *State of Jharkhand Vs. Shailendra Kumar Case, 2022* which was significantly immoral and medically not notable involved the examination of a woman's vagina to check if she is sexually active or not. This regulations clearly determined the patriarchal and sexist outlook of the law that a woman cannot be believed to be the victim of rape merely for the reason of being sexually active. The significance of **Consent** is totally undermined in the law statutes.

The legal view of *prostitution* as a crime before it was legalized in India certainly is an obvious

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<sup>4</sup> Tewari, Anadi.2024. <https://www.barandbench.com/columns/litigation-columns/international-womens-day-24-supreme-court-judgments-womens-rights-india>.

<sup>5</sup> Devm.2021. <https://www.juscorpus.com/bombay-dance-bar-case/>

example as stated earlier. The word family and the area of *family law* is yet another example as the norm of family is fundamentally defined as a household, which is headed by a man with wife, who is wholly or somewhat dependent on him and other forms of family, specially without a man are considered to be *abnormal* to such an extent that the purpose of the family laws is to sanction the formation of ideal families and to limit the formation and existence of non-ideal families and to control the status and lives of women.<sup>6</sup>

Section 69 of the Bharatiya Nyaya Sanhita, 2023 focuses on the criminalization of sexual intercourse by a false promise to marry, which may be through deceitful means with no genuine intention to be fulfilled.<sup>7</sup> Concerns about how the judiciary interprets false marriage pledges under the IPC, where a woman's free assent is closely examined, have also been brought up by feminist researchers. A woman's permission is not deemed to have been breached because of her age, history of sexual experience, marital status, level of education, or social background, according to a number of precedents. If a woman meets any of the aforementioned requirements, it is presumed that she is of legal age to give permission. Women's autonomy has been severely hampered by this interpretation, which also upholds patriarchal standards.

The purpose of this law's introduction, was to protect women's rights; however, it has been demonstrated that doing so severely weakens their status and calls into question their autonomy during consensual sexual activity, reinforcing the patriarchal norms that already exist in the community. The Indian gender roles in society are now in conflict with each other because of the law. The requirements to establish the man's purpose leave a very little window of opportunity for a remedy for women, which causes the legislation to have paradoxical effects.

The debate over the '*pregnancy leave*' is an example of conflict talk that is proved troublesome for women to insist that women must be treated equally with men when there is a fundamental way in which they differ the way they become pregnant, that is considered a boon for them. And to have one needs labelled as "special" simply because they are not present in men due to biological reasons in a society where men's needs are the unstated reference point for equality, means any effort to address *special* needs is suspect for violating equality.

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<sup>6</sup> (Conaghan 2009)

<sup>7</sup> <https://www.epw.in/journal/2024/18/commentary/bharatiya-nyaya-sanhita-and-false-promise-marry.html>

The legal approach to the *pornographic problem*, which presents it as a conflict between the interests of men and women, does not objectify or denigrate women. Similarly, the societal interest in free speech is an example of counterproductive conflict talk that narrows our understanding of the issues facing women.

The law does not provide justice when you **can't make decisions regarding your body**. Every person has the right to have reproductive autonomy and control over their own fertility. This is especially crucial for all girls, women, and those who have the potential to become pregnant. Nevertheless, there are still a plethora of obstacles that keep people from getting abortions, such as societal stigma, criminalization, and intersectional discrimination.

*Reproductive justice addresses issues of population control, bodily self-determination, immigrants' rights, economic and environmental justice, sovereignty, and militarism and criminal injustices that limit individual human rights because of group or community oppressions.*

*(Loretta J. Ross – academic, feminist and activist from the USA)<sup>8</sup>*

Overturing of *Roe v. Wade* diminishes this right which is protected and along with all other human rights guaranteed by international human rights legislation.

The particular needs of LGBTI individuals must be taken into account in any efforts to increase access to abortion, as they are likely to experience intersectional kinds of stigma and discrimination should they choose to seek one. Transgender and gender non-conforming individuals, for instance, are more likely to report experiencing harassment in medical settings and frequently being turned away from treatment because of their gender identification.

The crippling consequences of violence and legal language that places the word "domestic" before "violence" serve as an example of how women are perceived to fit the psychological and financial reality of being a battered woman into the criminal justice system. Kristin Bumiller delves into the topic of rape as a legal symbol in her article, '*Rape as a legal symbol: An essay on sexual violence and Racism*'; can we turn a woman's experience of what she initially perceived as a nice social interaction—which eventually crosses the line into

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<sup>8</sup> <https://www.amnesty.org/en/what-we-do/sexual-and-reproductive-rights/abortion-facts/>

threatening violence—into a rape theology?<sup>9</sup> However, the focus of the rape law is not on violence but rather on women's consent to sex from a male perspective. As a result, it reiterates that any sign of social interest is also interpreted as an order to "do what the man wants". We frequently hear statements such, "I thought she consented because she was talking to me politely" or "She lured me towards herself so I thought it was consented."

In her paper *Unearthing the Barriers to Women's Speech: Notes Towards a Feminist Sense of Procedural Justice*, Lucie White poses the question of whether a black mother on welfare could ever explain to the welfare bureaucracy that she was being overpaid for following their incorrect advice and ending up in an insurance check. This woman's main concern is that, despite her innocence, she was able to purchase Sunday shoes for her kids. "But what is crucial to the state's welfare law is not her view of good and wrong, or her personal understanding of what was necessary for her family, wearing Sunday shoes was fundamental to human dignity—but the items she bought with Insurance check, met the state definition of "necessities" of life.<sup>10</sup>

## **II. DIFFERENCE IN GENDER AND SENTENCING: EVIL WOMAN AND DOUBLE DEVIANCE THESIS**

Why there appears to be a difference in the treatment of genders during the sentencing phase of trials is an issue that has been debated for a long time in many academic literature formats. Evidences have shown Male inmate population in the United States prisons vastly exceeds female inmate population.

The criminal justice system's sentencing phase was selected because data indicates that this is the part of the process where there are the greatest disparities in the treatment of different genders with regard to the crimes they are sentenced to. This is supported by academic research by writers like Gelsthorpe (2013) and Steffensmeier et al. (1998), who examined the gender effect as one of the variables influencing a person's sentence and whether or not that number is justified by the crimes they commit. The question of whether different genders receive equal treatment when receiving sentences for crimes of a comparable kind could serve as the basis for justifiability.

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<sup>9</sup> (Conaghan 2009)

<sup>10</sup> (Conaghan 2009)

i. *The Chivalry/Paternalism Thesis*

According to the chivalry thesis, female offenders receive different treatment from the criminal justice system than their male counterparts because of their perceived vulnerability as victims of masculine harassment. It indicates that because of their gender, juries, judges, prosecutors, and police personnel are more likely to treat female offenders leniently. Put otherwise, it suggests that men are subjected to more severe penalties than women for the identical offenses.

Heidensohn et al.'s 1998 study, which examined 35 nations, including Wales and England, found no proof that female criminals received consistently worse treatment than male offenders. In a similar vein, research by Carlen (1992) and Walklate (1998) found no discernible differences in the treatment of men and women by criminal justice systems.<sup>11</sup>

Apart from the various *empirical observations*, gender variations in criminal activity have also been explained by *functionalist sex role theory*. This perspective holds that differences in the patterns of criminal behavior between men and women can be explained by examining the ways in which society rewards specific behaviors for each gender based on traditional gender roles. For instance, men are rewarded for aggression, while women are rewarded for passivity and obedience. According to this hypothesis, women commit less crimes because they are not rewarded or given societal acceptance for acting aggressively, unlike men, rather than because they are treated differently because they are female.

THE FEMINISTIC PERSPECTIVE states that patriarchal power systems keep them from having access to resources needed to commit some crimes, like stealing from businesses or selling in drugs (Smart & Neale 2006). Women are less likely than their male counterparts, who have greater access to resources and autonomy within society, to engage in such crimes because these activities require some degree of financial independence or freedom from supervision—both of which are largely denied to most women (Smart & Neale 2006).

According to the study conducted by Spivak et al. (2014) chivalrous and paternalistic attitude can be seen in the case of juveniles as well, that the desire to defend women could originate from juvenile court and be viewed by most age groups after being brought before a judge and given a sentence as an mature.

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<sup>11</sup> 2023. <https://www.precookedsociology.com/gender-differences-in-crime-chivalry-thesis/>

ii. *Double Deviance/ Evil Woman Thesis*

A twofold *deviance theory*, advanced by feminist criminologists, contends that female criminals face punishment for both their transgression of gender norms and expectations as well as the crime they commit. It is recommended, based on this, that female offenders are classified as "mad" or "bad." The notion suggests that "bad" women are those that intentionally stray from the norms that are expected of them, and as a result, are viewed as manipulative and malevolent.

They are then assessed based on the fact that they committed two offenses. According to Murphy and Brown (2000), this idea puts women in a position where, depending on whether they defy these social standards about what is expected of them, they could either be vilified or treated with more leniency. The Evil Woman idea, sometimes known as the Double Deviance theory. It is greatly assessed that women who break these societal norms are punished even greater than men do when they commit the same crime. For-instance if a woman is seen smoking in the non-smoking zones she'll be judged more for being a woman rather than her crime. However if the man is seen doing the same thing he'll the policeman might share a cheroot with the man smoking.

According to a 2006 study by Spohn and Holleran, women with *limited criminal history* received lighter penalties than their male counterparts, while those with *greater criminal experience* received harsher sentences. According to the 'double deviance theory', it may be inferred that individuals who are judged to have behaved in a way consistent with the ideal of what a woman should do have received sentences that are generally more lenient.

The premise that women are traditionally viewed primarily for their roles as mothers and child bearers, with less emphasis placed on the roles and obligations of fathers, is the basis for the fear of female criminality. The way the criminal justice system views female crime in general reveals ingrained *misogynistic* beliefs, such as the notion that crimes committed by women are more serious than those committed by men because they involve "double deviance"—the concept that a crime represents both a *moral transgression* and a *gender identity*.

Female insanity and criminality were frequently closely related. The term "lunacy" is linked to the Latin 'luna', which means moon, and the word "hysteria" is derived from the Greek 'hysteria', which means womb. Historically, these terms have been associated with femininity



and were thought to be regulated by lunar cycles. That being said, the idea that lunacy is fundamentally feminine is ingrained in society, and historians like Elaine Showalter have done a great job of developing the historiography of female madness.<sup>12</sup>

These theories further give us an insight that how nuanced issues like these are which further need exploration and research.

### III. EFFECT OF MASCULINITY ON LAW

This idea proposes that law operates under the supposition that masculinity exists outside of culture and, thus, outside of patriarchy (for example, the law shapes and maintains the notion that men have innate, uncontrollable urges to engage in sexual activity). It places masculinity in the context of something that predates both culture and the law, something that has to be restrained.

Scholars see that the pressure of Hegemonial Masculinity imbibed on boys makes their lives cumbersome as well the turns out to be detrimental for their future. It not only affects the men but also the women because men always enunciate and suppress upon their opinions on women, objectifying them. The competitive pressure around men to erase their foibles and fit among a cohort indulges them in an aggressive behavior.

*How does law and justice gets affected?*

Law interpretation is contingent upon the experience of the *interpreter* (judge, jury, lawyer, etc.) in analyzing behavior. This interpretation frequently takes place behind a curtain of preconceptions and cognitive biases, many of which are based on how men should or have behaved and are probably unconscious to the decision maker. A large portion of these assessments will be based on the man's race, sexual orientation, social class, and other identities. Legal judges make decisions about whether a person's behavior was appropriate in criminal law, family law, employment law, and immigration law. These decisions are frequently made using identity prisms. The *intersectionality between feminism, masculinity and law* turns out to be the least explored regime which attaches itself to the veracity of details.

It is believed that courage defines a man. Men who go to combat admit that their fear of not

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<sup>12</sup> Whitehead, Sophie. <https://retrospectjournal.com/2022/04/03/double-deviant-the-criminalisation-of-and-attitudes-towards-female-sin-in-nineteenth-century-britain/>

being viewed as manly is the true source of their courage. So, fear, the most "feminine" of qualities, is what motivates males to take brave actions. According to the system constituted women are not appropriate for on-site expeditions in war since they have to adhere to the burden of bleeding every month which might act as an obstacle in their performance.

As a result of the concept of Mandatory Military Service comes into picture, also known as conscription the forceful service rendered from men again traces its roots from *toxic masculinity*. The people unfit for the job and for the discipline are labored involuntarily simply violating the fundamental right to liberty.

The Agneepath Schemes enforced in India in 2022 for the armed forces, perpetuates the individuals who become a part of the scheme to not get married during their period of service, and neither are they provided with any pension or medical treatment post service. This policy further propagates the idea of masculinity which is seen as a promoter of courage in individual but does not analyze that only 'Josh' and 'Jazba' is not necessary for a military to reach the scales of height. The scheme certainly raises voices regarding the unit cohesion and operational effectiveness of the scheme, putting national security at stake.

Carol Smart talks about that how masculine of both legal method institutions of law is constituted as a masculine professional, empirical grounds and doing law is being identified as masculine are Congress. However, smart in her passage also states that men as a subject of a discourse of masculinity.<sup>13</sup>

Masculinity also affects employment rights of individuals where other genders are deprived of their rights as certain jobs are meant to be for specific genders that exhibit masculine aura. For example the violence against masculine cocktail waitress and transgendered employees. The book by Ann C McGinley "Masculinities and the Law" further enunciates the idea that how multidimensional approach to masculinity influence the behavior of policemen, firefighters, judges and employees in various fields. Even the architects of law and legislations are imbibed by the idea of masculinity which is reflected in their proceedings and decisions.

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<sup>13</sup>Collier, Richard. *Masculinity, Law and the Family*. Routledge

#### IV. REFORMS INTRODUCED TO ERADICATE THE DIVERSIFICATION.

In this section, I'll be addressing the various reforms associated to the various concerns I have brought about in my initial writings. It is imperative and necessary to have a *gender-neutral* language along with the equity it provides therefore, it is proposed that a separate provision should be introduced for the victims of gender identities while also protecting the rights of women as stated in article 15 (3) of the Constitution.

In 2021, Uttarakhand government amended the *Uttarakhand Zamindar Abolition and Land reforms Act* while giving co-ownership rights to women.

The second example is about the *Hindu Succession Act of 1956*, which again gave equal right to daughters in joint Hindu family property.

Furthermore terms like 'prostitute' were replaced by 'sex worker' in the *Supreme Court Gender Handbook* while changing the psychological impression of a sex worker from being loathed to as a revered means of income.

In **National Legal Services Authority vs. Union of India and Ors**, the landmark decision was taken where Apex scored legally recognized the *third gender or transgender persons* for the first time and discuss gender identity at length, providing them the various fundamental rights they deserved.

**The Punjab and Haryana High Court** urge the union government to imply gender inclusive language and replace the terms such as "Ex-servicemen which reduces gender inclusivity, especially for women in armed forces.

Similarly, the handbook on combat gender types issued by Supreme Court in 2022 is a landmark since it eliminates the use of words filled with gender stereotypes.

In **Akella Lalitha vs Konda Rao and others**, the Supreme Court observed that the mother being the only natural guardian of the children can decide the surname, therefore bringing representation for women in the society and distracting itself from the patriarchal nature of the

society.<sup>14</sup>

In **Kamla Neeti through LRs v. The Special Land Acquisition Officer and Others (2022)**, the Supreme Court urge the amendment of section 2(2) of the *Hindu Succession Act* and stated that there was no justification for denying the right of survivorship to a female member of schedule tribe.

In **Aureliano Fernandes vs State of Goa and others(2023)** the Supreme Court gave a judgement regarding the effective enforcement of *Sexual Harassment of Women at Workplace (Prevention and Prohibition and Redressal) Act of 2013*, and therefore it asks the centres and the government to take affirmative action and ensure the object behind POSH ACT should be fulfilled, which is an important step to addressing sexual assault at employment and workplace as the case against wrestling coach Brij Bhushan established.

## V. CONCLUSION

*Law and gender* make a strong contribution to social legal approach to law and legal theory. It blurs the slight boundary between ‘law’ and ‘non-law’ to enable *gender to become visible*. In the light of the privileged status of law within a society, it cannot be neglected that social relations will continue to be reproduce within legal discourse as they always been, from *masculine point of you*.<sup>15</sup>

Law is not Univocal it operates from a number of different formal sites exercising its normative presence. “Masculine” and “feminine” are the floating signifiers and determiners of the law in various forms. While searching for *various reforms related to gender*, the results only suggested me- *reforms related to women* converting ‘gender’ synonymous with ‘women’.

However, there is a slight boundary which we need to draw between ‘*difference*’ and ‘*diversity*’. Women as a part of the society or be it any other gender *diversify* the society rather than creating a *difference* between it and the laws regulations associated to it.

My point to prove in this paper is simply *if a woman kills a partner as a consequence of jealous possessiveness, following break down the relationship, it will be associated with her nature as*

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<sup>14</sup> <https://www.barandbench.com/columns/litigation-columns/international-womens-day-24-supreme-court-judgments-womens-rights-india>

<sup>15</sup> (Conaghan 2009)

*an ordinary woman as she must behave in a society. Men kills from jealousy, their actions less likely to fall outside the range of behavior which we recognize as a conduct of ordinary men.*<sup>16</sup>

Economic marginalization, atrocities faced by women, and the justice granted as a result of the crime are certain core premises promoting **gender as a predictor of crime**.

I do not indicate the *gender is the best predictor of crime*, but yes, according to the research conducted it plays a significant and a seminal role in affecting crime and justice.



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<sup>16</sup> (Conaghan 2009)