

# Men are Vulnerable Too! Assessing the New Criminal Laws in the light of Gender Based Offences

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*Abstract— The Parliament of India have recently passed a legislation which extends the new definitions of various offences in the text of criminal law. The legislation passed defining the offence of rape as vaginal or anal penetration of women, but did not define any kind of penetration of men. This may have been the intent of the legislature, as women are one of the most vulnerable groups within society. This article will analyze the new legislation, and considers that anal penetration of men should have also been considered on the basis of incidences of male rapes, international human rights law, as well as that there should also be a law before Parliament which relates to the anal penetration of men. The article also argues that the legislature should have also considered that this case of penetration or any other kind of sexual offence like sexual assault, sexual harassment involved a male victim who is also from one of the most vulnerable groups.*

*Index Terms- Male rapes, International human rights law, Sexual offence, Gender Neutrality Sexual harassment, Legislature*

## I. INTRODUCTION

*Forgetting is an art we the people of this society should not have perfection in it!*

Recently in November, 2022 In a very unfortunate incident that happened in Punjab, four women reportedly kidnapped a factory employee and detained him in Jalandhar. It was alleged that the four women sexually assaulted him by engaging in physical relation with him throughout the night. The victim further alleged that he was subjected to several hours of sexual assault before being dumped in a forest area late at night. He shared the details of the incident with the local media and decided not to report it to the police at his wife's insistence

We have largely indifferent to the existence of male rape victimization. And with no better response. We tell ourselves that male victim victimization is rare, or something only happening to gay men. In other words, a patriarchal mindset have made male victim rape

invisible. We find great silence surrounding male rape victimization in the society and apparently in legal scholarship about rape. The argument is that an agenda to think about rape as a gender-neutral offense would help rape law reform advocates build new potential allies. It suggests that male victimization can help us in re-conceptualizing the genuine harm of rape. And it shows that there are serious implications for thinking about the law of rape based on the realities of male victimization. Many rape laws have been amended to be gender-neutral, but how we enforce those laws are still very gendered. As a result, male victims have been hurt. But more broadly, the law of rape has hurt.

Throughout history, gender roles have been entrenched in societies, prescribing what is appropriate for males and females. Gender norms have founded systemic differences between genders, where specific roles and opportunities were afforded to one gender, not the other. It is only in the past few decades that there has been a growing awareness to challenge and change these roles. Gender neutrality began as part of the wider feminist and human rights movement, focusing on the restrictive nature and injustice that gender roles impose, which sought to achieve a more inclusive, equitable society.

Gender neutrality is recognizing that individuals should not be discriminated against or treated biased based on their sex. Gender neutrality also implies that there can be policies, norms and practices that acknowledge and eliminate the persistent inequality between gender based roles, opportunity, and expectations. The idea of protecting against the idea of gender-based role expectations of people usually entails doing away with the privilege of expectations of gender. This perspective would suggest that gender should not be the basis of expectations about how people may be treated, accepted or provided opportunity socially, legally or economically. The goal of gender neutrality is to ensure that no person is

marginalized or discriminated against on the basis of their gender. This concept advocates for equal opportunities and treatment for every individual, whether they are male, female, or non-binary. A gender-neutral approach includes acknowledging and accounting for a range of gender identities that lie outside of or are more nuanced than the traditional binary of male or female. Policies, practices, and language can all reflect the existence of more than one gender identity and work toward being considerate of and acknowledging that existence. Gender-neutral language does not use words that reinforce gender stereotypes or exclude a specific gender. For example, using "chairperson" in the place of "chairman" or using "police officer" in the place of "policeman" can help lessen gendered bias or exclusion and create a more welcoming environment.

In relation to gender neutrality, individuals advocating for this cause also emphasize that opportunities, including the opportunity to seek and attain employment, education, and healthcare, should not be limited by or based upon their gender. Gender neutrality advocates for policies and practices to disallow gender to significantly impact the real justice associated with equal treatment and equitable opportunity. Using and embracing gender-neutral language is inherently about challenging ideas and assumptions about gender norms and stereotypes. Gender-neutral language also means addressing societal norms that dictate how an individual should dress, act, or pursue a career based on their gender. Numerous law regimes have instituted gender neutrality to reduce gender discrimination and promote equal treatment. Such changes have occurred in settings such as education law, occupational law, and anti-discrimination law. Gender-neutral education works toward eliminating gender bias in a learning environment. This generally means using inclusive curricular and teaching resources, cultivating gender diversity in activities at school, and facilitating any child's ability to engage in their interests and work toward a career, free of gendered barriers.

Gender neutrality has also infiltrated the workplace; reflected in policy and practices such as equal pay, preventing harassment, and equitable hiring and promotion practices. Gender-neutral job descriptions and gender-neutral evaluation criteria create throughlines that alleviate assumptions and biases in

the overall recruitment and advancement trajectory. Gender-neutral healthcare policy addresses and mitigates bias in healthcare and medical research in a variety of ways for all gender identities. More importantly, healthcare policy assumes and advances individual gender needs and treatments in healthcare and medical research. Governments and organizations are also developing and supporting the implementation of gender-neutral policies abroad addressing multiple social issues, including gender-based violence, reproductive rights, and social or family services. These policy agendas aim to create inclusive and equitable supports and protections for all individuals, regardless of gender. Gender neutrality signifies a progressive turn away from our traditionally held understanding of gender roles and biases, towards a more equitable society. Practicing gender neutrality is the act of treating individuals equally, in an inclusive and equitable manner, and for the purposes of equity, we want to dismantle systems of inequality in an equitable world. The principles of gender neutrality will always be vital in supporting tasks of creating a gender-neutral world in which people of all genders can thrive as societies further evolve.

*Before we move further on our topic here are some questions focused on the issue of male rape that make the research more valuable and more challenging.*

What is the current incidence of sexual assault against males and how does it compare to that of sexual assault against females?

What are the main reasons male victims choose not to disclose the rapes they have experienced?

How effective are existing laws designed to protect male rape victims and what are the key gaps and barriers in the system for males?

How do police and the courts take on cases of male rape as compared to female rape?

How do different countries respond to male rape and provide victim protections, victim services, or awareness campaigns for the general public?

What can be gleaned from other countries response to male sexual assault/rape that can frame changes to practice and policy in your country?

How societal stigma affects male victims of sexual assault/rapes, including misconceptions regarding male sexual assault/rapes?

How societal attitudes regarding males and assumptions regarding masculinity effect perceptions of male sexual assault/rape survivors?

How do sexual assault and rapes affect male psychological and emotional well being as compared to females?

How does male sexual assault/rape effect victim's social relationships (family, friends, partners)?

How does intersectionality influence the experience or treatment of male sexual assault victims (think about race, sexuality, socioeconomic status)?

Are there more complex barriers that marginalized subgroups of male victims encounter and what can be done to address those issues?

Have recent legislative changes resulted in any changes in reporting or treatment of male rape cases and are there any implications for survivor rights?

How effective are legislative changes in improving protections, services, or reporting for male rape victims?

These inquiries all contribute to male rape from a number of angles, including prevalence, social attitudes, legal response, service response, and the consequences for victims. These can be used as a set of guiding inquires towards research focused on better understanding and support of male victims of sexual violence.

## II. OBJECTIVES

The various objects to the research are as follows:

To Conduct an examination into the frequency of male rape in the broader society, including an examination

of patterns in reporting rates and the attitudes and circumstances influencing male victim reports.

To Examine societal stigma and misconceptions around male rape and what this means for a victim's willingness to report and seek support;

To Evaluate how legal systems and organizations respond to male rape cases and the adequacy of the laws, support services, and the justice process;

To Identify barriers to support services for male victims including counselling, medical and legal support;

To Evaluate the psychological and social impacts of male rape including trauma, mental illness and social isolation;

To Assess how male rape is depicted in media and popular culture and the effect on public perceptions and knowledge of male rape;

To Compare international responses to male rape and societal attitudes; best practice review.

To Make recommendations for improving the law, service and public awareness of male victims of rape.

## III. LITERATURE REVIEW

Although it is less likely to get as much attention as female rape, male rape is a serious issue which has potential social and legal implications. In India, male rape has received some attention but still lacks extensive research and reporting. This article seeks to extend the relevant literature on male rape by reviewing and synthesizing existing literature, examining the perception of male rape, the prevalence of male rape, attitudes towards male rape amongst society, the legal frameworks, and the barriers to male victims seeking help in India.

Starting with the prevalence and reporting of this issue, Investigations into male rape prevalence in India are very limited, falling short of even relevant outcomes as part of sexual violence research more generally. Studies, provide insightfulness even in the absence of data. They argue that while actual figures

on male rape are not accessible, we recognize it as an important issue that needs to be addressed.

Indeed, male rape in a variety of contexts including, but not limited to, the home, institutional settings (e.g. prisons, care facilities), and in public spaces. Evidence is primarily anecdotal or derived from certain case studies, rather than based on larger studies or data (e.g. often not ritualized interview, or survey, statistic-based data). Rather, we lack objective evidence even post investigation, but rather rely on anecdotal evidence of occurrences in the structure of not providing a survey or supporting evidence of sexual violence against men as a subgroup. One further conclusion that can be drawn from studies is that male rape is not confined to one setting or demographic and is therefore mitigated against men and perpetrators from many, if not all, social realms. For example, in private households, intimate partners and other family members may inflict violence of male survivors. In some institutional settings, such as prisons, may hold vastly elevated occurrences of sexual violence perpetrated against men. The dynamics of power on top of institutional isolation can increase risk. Male rape can also occur in public settings based on violent contexts or socio-political instability of large groups of government political control etc. While the studies all show the seriousness of this issue in India, there is not enough understanding of systematic studies or data collection. We need more efficient reporting systems, survivor support systems, and awareness as it works on a non-institutional, non-ritualized based area of collecting data on reporting and suffering sexual violence in India specifically. These types of evidence based studies could help in addressing the issue of male survivors suffering sexual violence and system based issues surrounding the complexity of studies in India was primary proactive for the fight and repression of sexual violence specifically directed towards women.

The paper written by McLean I.A., “*The male victim of sexual assault*” published in *Best Practice & Research: Clinical Obstetrics & Gynaecology* in 2013, addresses specific issues related to providing treatment and support to male victims of sexual assault.

McLean's article clearly breaks down four topic areas related to male victims of sexual assault. First, it discusses the prevalence and epidemiology of male sexual assaults. While males are reported less frequently than female sexual assaults, McLean notes that they still represent a significant number of assaults. There is a recognition of the need to include discussion of male sexual assault in both research and practice, as it simply doesn't exist in either area. The article mentions that a male victim of sexual assault is likely to experience psychological and emotional impacts. McLean mentions three key issues related to male survivors, including PTSD, depression, and anxiety. The stigma and disposition of society can harm male victims as they relate to the male experience of violence, especially related to masculinity.

McLean also discusses barriers that male victims face when seeking help or reporting the act of sexual assault. Some of these barriers include societal expectations, fear of ridicule, or a lack of appropriate support services. This contributes to the considerable underreporting of male sexual assault victims and the lack of targeted supports. Lastly, McLean lays out some best practices for medical professionals. This section includes practical suggestions for care and support to improve services for male victims. First, the need for inclusive and sensitive screening will help improve male survivor experience, second, provide training to healthcare professionals to meet the needs of male victims, and finally, create a safety net with the emphasis on trust for the disclosure of sexual violence, safety, and privacy. The article does a good job, although it could have drawn on more recent statistics and studies to reflect changing attitudes towards men and their ability to receive support in services.

In the article Lowe and Rogers wrote in 2017, they conducted an expansive overview of the issue of male rape as it relates to research, policy and practice. Their contribution to the conversation surrounding male rape fills a noted gap in the literature on the range and meaning of male rape, which has not always been a focus potentially in research or in practice and policy. This overview reflects on the article's main themes and refers to the way it adds to the understandings of both the issue of rape, meaning male rape and the relations

of practices to researcher and policy making context. In the article, the authors mention evolving legal definitions and protections as it relates to male rape. The overview highlights the need to reform and engage with legal protections for all survivors of male rape in particular. The article highlights the role of advocacy in raising awareness of male rape and the change it promotes. They highlight various advocacy projects, service programs and agents that have led to increased attention regarding male survivors of rape, but argue sustained efforts may be needed to promote change at the systematic level. The article speaks to gendered perspectives, societal perceptions, attitudes and stereotypes regarding masculinity, how this affects male survivors of rape and victimization. They contextualize the way attitudes can contribute to male survivors of rape being marginalized or not seeking help, and reinforce the stance traditional societal norms of masculinity may need to shift to better service males survivors of rape. The authors review literature on the psychological effects male rape has on the individuals and it discusses the similarities and differences male and female survivors experience. They also review literature on trauma and mental status, while they also spoke to psychological trauma and mental health issues researching exploited male survivors of rape. The main focus to encourage more research on male survivor experiences, how gender norms/roles play a role in survivor's recovery. The authors reviewed various studies that have attempted to survey prevalence and male rape. The authors discussed the challenges of data reporting male rape. Specifically, they point out the limitation of estimation and data comparisons cited in the paper. The articles cited suggested men are significantly underreported versus female rape. Potentially as a result of further stigma presented by standards

In their 2011 review article in *Clinical Psychology Review*, Peterson, Voller, Polansky, and Murdoch offer a thorough review of adult sexual assault prevalence and effects on men and boys. They provide a valuable review, especially since less of the literature has focused on this area when assessing it relative to sexual assault of women. The review article explains that while men's histories of sexual assault are reported less often than those of women, male sexual assault is still an important concern with a significant prevalence. The authors mentioned that prevalence

levels are provided in a variety of studies, but still asserted male sexual assault has not had the attention it deserves. The authors assert their view, that male sexual assault is often underreported, is based on the stigma men experience, social norms, and a lack of awareness for male victimology. Estimates of prevalence indicate that sexual assault of men, although less common than assault of women, still has significant estimates of prevalence in the literature needing attention. The author mention multiple variables that may account for under-reporting and unique consequences of assault in males. For example, societal constructs of masculinity may lend barriers to men disclosing their assaults, or seeking assistance. The authors also mention additional challenges faced by male victims related to societal perception of disbelief and victim blaming. All barriers to obtain associated support may ultimately impact the prospective psychological wellbeing of male assault victimology. The review identifies areas of the literature needing further investigation. Some examples include understanding the specific experiences of male survivors, and the experience of male survivors when participated in treatment designed for men. There are calls for gender-informed studies to enhance the understanding of male sexual assault experiences, and developing supports that reflect that understanding. The review highlights the importance of capturing the overall prevalence and consequences of sexual assault toward men. The authors, by not only review the research in the area, identified and highlighted areas of the research literature needing attention for the purpose of increased awareness and increased assistance to survivors who identify as male. The authors call for continued investigation in order enhance understanding and intervention related to the complexity of sexual assault toward men.

In their 2004 study published in the *Journal of Trauma & Stress*, Elliott, Mok, and Briere examine the prevalence, symptomology, and sex differences related to adult sexual assault in the general population. This study makes a valuable contribution to our understanding of the larger context of sexual assault by trying to make sense of both the prevalence of sexual assault and its impact on survivors. The researchers find that adult sexual assault is prevalent and a significant problem for both men and women,

though prevalence varies by sex. Elliott et al. reference data from several population surveys to estimate that sexual assault is a serious issue affecting large numbers of people, with women victimized at a higher rate than men. These results confirm the prevalence of sexual assault and its seriousness in the general population, warranting further assessment for prevention and support. One contribution of this study is how it examines sex differences in sexual assault. Elliott et al. conclude that both men and women experience significant distress in the aftermath of sexual assault, yet there are important differences in the manifestation, reporting, and experience of sexually victimized men and women. Generally, women report experiencing greater levels of distress and get more severe psychological symptoms than men. The authors speculate on the potential reasons for this difference in response such as social expectations and gender norms, reasoning it may influence how individuals experience their actions, process their experience, and describe the symptoms they experience. Elliott, Mok, and Briere's study also examines methodological issues in the sex and violence research. This is an area of concern, as they discuss the importance of representative samples and the use of standardized instruments to describe the rates of prevalence and symptom. An important challenge they note is associated with underreporting, as well as the definition and measurement of sexual assault not being standardized among studies. The research study makes important advances into our understanding of the prevalence and consequences of adult sexual assault and reveals both the similarities and differences in the adult sexual assault experience, based on gender comparison. The findings emphasize the need for further research and focused service provision that considers the psychological impact of sexual assault. By examining prevalence rates, the symptomatology, and sex differences within sexual assault, the study contributes to the understanding of sexual assault and the contextual factors related to survivors' experiences.

Kassing, Beesley, and Frey (2005), in their research published in *Journal of Mental Health Counseling*, utilized a quantitative approach to investigate the extent to which male rape myth acceptance is influenced by gender role conflict, homophobia, age, and education. This article provides valuable insights

about the psychosocial elements which lead to the endorsement of male rape myths, which may lead to policies and practices that may minimize or delegitimize male rape experiences. The study highlights the positive correlation between gender role conflict and male rape myth acceptance. Men experiencing more intense gender role conflict are more likely to endorse myths that downplay or misrepresent the existence of male rape. Traditionally masculine norms tend to depict individuals as strong and invulnerable, which could prevent some men from feeling able to recognize or acknowledge male victimhood.

Homophobia is another significant predictor of male rape myth acceptance. The study suggests that individuals with higher levels of homophobia are more likely to endorse rape myths. The research suggests that homophobia accepts the rejection of male rape as a genuine experience and further reinforces damaging stereotypes, especially among men who may view male rape as being aligned with same-gender sexual behaviors.

Age is an additional moderate predictor of rape myth acceptance. Older individuals may have more traditional views related to masculinity, sexual behavior, and gender, and this could potentially contribute to their acceptance of rape myth acceptance. However, the relationship with age lags behind homophobia and gender role conflict for significance.

Finally, a lower level of education is seen to be negatively correlated with male rape myth acceptance. Individuals with a lower level of education are likely to espouse male rape myths more than individuals with a higher level of education. Higher education presumably increases gender awareness and a more informed perception of sexual violence, myths, and stereotypes. The authors call for intervention efforts to mitigate rape myths

Homosexuality, A common misunderstanding in relation to masculinity is that men are only sexually assaulted by homosexuals. This perpetuates a false assumption that sexual violence is about sex, that it is only committed by homosexuals, and that victims are mostly homosexual. Conversely, there is the

assumption that women do not assault men, therefore leaving the perpetration of male sexual victimization completely to men. Based on stereotypes of homosexuals sexually assaulting only men, these assumptions about victims being mostly homosexual contribute to the poor understand and poor response that male victims receive.

"Male Rape: Breaking the Silence on the Last Taboo", written by R.J. McMullen, is a groundbreaking book on a subject that rarely gets attention. The book was published by Heretic Books back in 1990, and addresses the nuanced, and sometimes difficult subject of male rape, its societal stigma, and affect on male survivors. He addresses the stigma against male rape while arguing that in contemporary society, male rape is still taboo. The purpose of the book is to "disrupt silence and open communication about men's experiences... the rational and real belief that they are most likely to be disbelieved" (McMullen, 1990, p. 8). The book details how cultural and societal contexts can shape texts of male rape. For instance, traditionally defined masculinity and gender roles exacerbate many of the struggles faced by male survivors after experiencing sexual violence. The notion around the book while some limitations exist, was critical in raising awareness around the subject of male rape. It provides a critical foundation for understanding the ensuing struggles for male survivors and societal reform needed to address these challenges. The book is groundbreaking in its own right, some readers may easily identify the context and perspective of the early 1990's. Many advances have been made on understanding and supporting male survivors since the 1990's and current readers will want to consider those developments. While summarizing, R.J. McMullen, "Male Rape: Breaking the Silence of the Last Taboo" is an important contribution to the discussion of sexual violence, and was one of the earliest contributions to a subject that is only now gaining attention decades later. The contributions made in the book are relevant today, however, readers should also chase other contemporary authors and studies when reviewing this literature.

Vearnals and Campbell's review illustrates the acute psychological consequences of male sexual assault, which can present as post-traumatic stress disorder

(PTSD) symptoms such as intrusive thoughts, flashbacks, and nightmares. Victims often experience severe emotional distress or anxiety, depression, and shame and guilt. Victims may experience a bruised sense of self, and issues regarding identity and masculinity often surface. The assault can lead to decreased self-esteem and a change in self-perception made worse by social stigma and stereotypes relating to male vulnerability. The authors address the critical barriers male victims encounter, including social attitudes that minimize male victimization. Masculinity norms may act as an obstacle for men to report victimization because they may fear not being believed or being further stigmatized. Vearnals and Campbell's review state that many male victims do not report their experiences because of these social pressures, leading to a lack of information on male victimization and overall knowledge of the extent of this issue. The review by opens an important discussion about the psychological effects of male sexual assault while outlining several possible areas of improvement in treatment and services. Overall, this article offers a valuable perspective for further understanding the challenges experienced by male survivors, while acknowledging that new research or studies should be drawn on for a current representation. review offers an important exploration of the psychological impact of male sexual assault and highlights key areas for improvement in treatment and support. It remains a valuable resource for understanding the complexities faced by male survivors, although subsequent research and developments should be considered for a more current perspective.

In M.P. Singh's article "Gender, Law and Sexual Assault" which appeared in Economic and Political Weekly in March 1997, addresses how gender, legal systems and sexual assault interact with each other. The article is an important, thorough going critique of the way that legal systems respond to sexual violence examining it from a gendered perspective and how laws reflect societal attitudes towards sexual violence and gender in general. Singh's examination of the historical definitions of sexual assault and rape discuss how gender bias have influenced them, as they reflect a patriarchal system and attitudes that influence how victims of sexual violence find justice. Singh's critique of definitions reflect bias against victims' experiences

and promote unequal treatment based on gender and sexual orientation. Deficiencies in the Legal Response to Sexual Assault: Singh highlights a number of deficiencies in the legal response to sexual assaults. Singh argues that while laws are designed to protect victims and hold offenders accountable, that they undertreat the seriousness of sexual violence, and as such cannot hold offenders accountable, as the focus on modifying behavior and institutionalizing gender biases results in these deficiencies. Singh examines how cultural attitudes and societal norms, the legal response to sexual assault is informed and influenced. Singh discusses how these norms lead to victim blaming and in some cases. Highlighting the social context of sexual assault and injustices: To inform and mandate the legal reforms Singh espouses he has underlined cultural and social norms, accompanied by legal bias towards the trials and conviction of rapists. Advocacy for procedural and substantive legal reform: Singh advocates for substantive legal reforms as well as procedural modifications. Among these forward looking reforms Singh supports are the elimination of definitions that enshrine gender bias, improving survivor supports and legal processes that are equitable. Singh highlights the need of gender responsive attitudes within the legal system, including judicial and royalty training to addressing bias in survivors and system processes.

The research work entitled "A Gender-Neutral Law on Sexual Violence: A stringent law is welcome but will the police and judicial machinery pitch in?" published in *Economic and Political Weekly*, August 2012, discusses the challenges and opportunities posed by a gender-neutral policy in the context of sexual assault laws in India. The research examines the obstacles and optimistic aspects of the legal change. The article is a consideration of recent legal reforms to provide for more inclusive sexual violence laws that use a gender-neutral framework to ensure that all individuals are given legal protections against sexual violence, regardless of their gender. By adopting a gender-neutral law framework, law would provide protections to all victims of sexual violence, including men and non-binary individuals who have historically been excluded and stigmatized in law founded on conventional male-female targeting. The gender-neutral law framework is considered a move toward a more equitable and just law system that does not

exclude any victim on the basis of gender. The article expresses concern about whether police and judicial systems are prepared to legitimately implement and enforce these new statutes and whether the current infrastructure and training are effectively considering or addressing sexual violence by way of a gender-neutral framework.

There are worries that resistance within police and judicial participants might be difficult to overcome and that they have traditional gender biases that linger and resist fully adopting a gender-neutral frame of reference. To make gender-neutral statutes work, the article concluded that without further training and education of police officers, judges, and all legal entities this illegal problem could not be effectively addressed. This knowledge and application would focus on removing biases in and about sexual assault and ensure everyone involved is treated fairly in the existing legal framework. In summary, the article addressed the impact that gender-neutral laws may potentially have on improving the impact of sexual violence.

Gender-based violence is a universal issue that infringe upon the international human rights of women and girls (United Nations 2017). All over the world, women and girls experience unacceptably high rates of violence from their intimate partners (World Health Organization 2013), which has only risen in the wake of COVID-19 related lockdowns and restrictions in 2020 (UN Women 2020). Women are at greater likelihood of being killed (World Health Organization 2013) by their intimate partners, and wherever they are located in the world, they can expect to live with the possibility of experiencing sexualized violence in their lifetime. In various settings while in public, women have faced persistent unwelcome sexual harassment in disproportionate numbers whether in social settings, or the workplace. Women, as well as children and men in areas where violent conflict and war are common, are typically victimized by other forms of gendered violence and rape. These experiences are just examples of how common gendered violence can be in the everyday lives of many females including -but not limited to - men who reflect the cross-hairs of gendered violence, with females being the primary target. Even so, while there has been a focus on women and girls in most research about gender-based



violence, it is not simply is women and girls who experience harm due to violence against gender, but transgender, non-binary and gender-nonconforming individuals, including 'men' who do not conform to patriarchal norms of masculinity - typically, men who are gay or experience gender-nonconformity. These groups understand the victimization that occurs due to their identification of non-conformity to gender expression or gender identity. Statistics on these groups suggest they experience disproportionate levels of harassment, physical assaults, and sexual assaults based on gender identity and gender expression. Feminist scholars assert that gender-based violence is predicated on gender inequity as systematically reinforced by societal expectations of gendered norms, thus gender-based violence affects multiple groups of individuals

The latest proposals from the Law Commission regarding a sexual assault law and for the prospect of abolishing Section 377 represent a major shift in the rape law reform conversation. That, however, has raised a somewhat complicated conversation about the ramifications of taking a non-gendered perspective. In general, aiming for non-gendered principles for law means to treat persons equitably under the law regardless of their sex. Still, it raises the difficult issue of whether marginalized populations have an adverse experience with erasing sex entirely from legal consideration. The movement towards non-gendered laws of rape is an effort to get past gender stereotypes and provide protections and consideration for all individuals entirely devoid of consideration of sex. In principle, this is a positive and laudable objective because this recognizes to aspect of sexual violence that does indeed occur indiscriminately to all people, despite their sex or gender identity. But, then the challenge will be enacting such a policy delivery to minimize the risk of unintended consequence of operationalizing that model. One concern is that if a truly genderless law is implemented, it could displace and disenfranchise people who are already vulnerable. Historically, women and forty non-binary people, especially those from minority communities, are disproportionately impacted by sexual violence and experience bias through the criminal justice system in this process. If these legally defined individuals do not exist in a product model, the factors of consideration towards supporting those individuals and working to

address any existing bias could not be addressed if a law is enacted in a non-gendered way and exacerbate factors currently present in the system. For example, if non-gendered laws are enacted, it is possible the history of women's needs in consideration for trauma and post-trauma needs will not be utilized or applied, all as a product of testing non-gendered processes. Even just focusing on the non-gendered goal could pose many negatives to provide special treatment - protections for women or non-binary people who have lived experiences with their trauma are vulnerable to persecution on a greater level than are men. In short, non-gendered laws move towards equality of treatment, but even still, a great many individuals face challenges that privilege other groups before others. Submission for equitable treatment should not redefine the roles and protections already needed for women and non-binary people whose experiences have already demonstrated need to displace deeper protections in other non-gendered definitions. Moreover, the implementation of a gender-neutral approach to law enforcement must be prudently regulated, so as to not function as another means of victimization. Again, there should be reassurances that the application of this provision does not create further humiliation or re-traumatization of victims, especially those already marginalised. For example, it is relevant that the legal process ensures appropriate attention is provided for survivors without the application of mechanisms that can add to their distress overall.

In summary, the shift to a gender-neutral approach is generated by a place of equity, fairness and equality, which is often a difficult balance to strike within the wealth of diversity of victim experience. It is critical that a structural reform is seen as equitable but with regard for the increased protection and rights of those that are the majorities at risk of violence (in law) more so than others. It is reflective consideration of the gaps in legislation and areas that may be difficult in a gender-neutral approach that we should focus on when auditing when not only moving towards gender-reform, but in consideration of creating justice and dignity for survivors of sexual violence.

Contemporary society has brought increased attention to the topic of gender neutrality. One significant aspect of this shift has been the increased acceptance of gender-neutral pronouns, such as "they/them/their",

acknowledged and supported in informal and formal settings alike. This growing acceptance extends beyond the use of language into other arenas of everyday life, including fashion. The fashion industry, which has historically been rooted in rigid gender binaries, is undergoing a transformation due to gender-free clothing. High-profile brands like Gucci, Kenzo, and Louis Vuitton are advertising collections that challenge traditional notions of gender and promote more fluid approaches to identity. Although there has been significant progress with the acceptance of gender-neutral pronouns and gender-free clothing, talking about gender neutrality remains complicated and sensitive. Often, acceptance of gender pronouns or gender-free clothing and products on the surface does not acknowledge societal issues that are more complex and multifaceted in nature. Many individuals and institutions are still similarly challenged by accepting deeper implications of gender-neutrality that deal with core concepts of identity, norms and structures of society, and inclusivity. While society continues to grapple with these conversations, it is crucial to acknowledge that larger issues surrounding gender-neutrality are fundamentally different to a shift that is simply observable in language and/or gender-free clothing and products. It is equally important that larger issues around and implications of gender issues remain unspoken or overshadowed by social constructs.

#### IV. LEGAL ANALYSIS

In India, the legal system has evolved over time in terms of sexual violence, but the specific provisions relating to male rape are still noticeably lacking. Similarly, the law is primarily concerned with female victims, and does not fully encompass the wide range of sexual violence offences. This situation has led to the sidelining of male victims of rape and sexual assault and the lack of proper legal protection.

The Bharatiya Nyaya Sanhita 2023 has defined rape in a way that is inclusive of some female victims, which mirrors wider assumptions and stereotyping about gender and sexuality types. For example, Section 63 of the BNS is solely focused on a male perpetrator and a female victim when defining the rape offence. This restrictive conception of rape does not account for male victims and female perpetrators, failing to

adequately recognize a large proportion of individuals that experience sexual violence. While the BNS could provide clarification or reform this definition to consider the gender of the victim, any definitions that still include a focus on victims and perpetrators relative to gender must go. Reforming the legal definition of rape to be appropriately gender inclusive would be one step towards providing justice to ALL victims. A redefinition would ensure and enact that non-consensual sexual acts are clearly identified as rape, no matter the gender of the victim and/or the perpetrator. This would be a significant shift away from a model of a legal system that assesses gender and more towards a gender neutral approach, ultimately highlighting the trauma and victimization of individuals regardless of their gender.

The conventional nature of rape was categorized around act in which men perpetrated the act on women. These perspectives were influenced by social beliefs and legal policies that viewed rape as a crime against women. They also offered evidence of gender-based harms and inequalities.

In numerous legal contexts, the laws regarding rape defined the crime narrowly and specifically as one committed against a female by a male. As a result, these laws did not account for situations in which a male is the victim of a female assailant. These narrow legislative definitions have often spurred confusion and difficulties to gain justice for male victims. Recently, the recognition of the need for redress to address these masculine narratives of rape can be seen in the redefinition of the statute in many jurisdictions, acknowledging that rape and sexual violence can occur against and be committed by any gender. These definitions have been modified with the intent of providing fair protection and justice for male and female victims and survivors of rape and sexual violence. However, while legal definitions may be shifting, men and male victims often still struggle to find the same support and recognition within the broader definition of gendered violence. Issues such as underreporting and preconceived notions lessening the legitimacy of the reports of male victims or the differing service provisions for male versus females impacts how male victims access and navigate the legal system. The historical, gendered definition of rape has created important barriers for male victims,

but as suggested here, important new understanding must begin at the legislative level--after which practical and procedural change can occur. While there is progress toward more inclusive definitions, there is still work to do in the recognition and support of male victims of gendered violence and their access to appropriate services and legal protections.

Under the Indian legal system, it appears an arid and ambiguous landscape for men who are raped or sexually assaulted. Many jurisdictions do not have laws that specifically refer to male rape or sexual assault, meaning that male victims will often find themselves navigating a legal system that is not entirely configured to address their unique experiences. As such, male survivors often have access to justice that relates to broader sexual assault statutes or unnatural offenses, which fails to reflect the true nature of their suffering. This ambiguity may lead to obstacles in securing appropriate support and intervention, due to the law's inability to validate a male survivor's suffering the same way it validates the suffering of a female victim. Thus, without guy-specific legal protection, male survivors may not be able to secure justice and much-needed services, which could hinder a male survivor's ability to achieve closure.

lets have the look on other neighbouring countries:

United States: Throughout the United States, the definition of rape differs from state to state, and at the federal level. The federal definition, which is defined in the Violence Against Women Act (VAWA), defines rape as:

The federal definition includes any penetration, however slight, of the vagina or anus with any part of the body or object, or oral penetration by a sex organ, without consent.

There are also differences between states in defining what is considered sexual assault and rape. It specifies that consent must be given voluntarily, by a person with the capacity to consent.

United Kingdom: The Sexual Offenses Act 2003 provides the definition of rape in England and Wales as follows:

A person (A) commits rape if he unlawfully penetrates the vagina, anus or mouth of another person (B) with his penis, and it is shown that B had not consented to the penetration. This definition is accompanied by one that defines consent as an agreement by choice, and in circumstances where a person has the freedom and capacity to make that choice. A lack of consent can be inferred if consent is obtained by force or threat. The definition of rape is limited to penile penetration, but it also provides an understanding of the broader notion of consent. The focus that the definition places on consent is with the background of 'consent' being voluntary, and on a victim's capacity to consent.

Australia: Across Australia, what constitutes rape differs from state to state. However, the basic definition of rape, broadly speaking, is as follows:

Rape is when a person intentionally engages in sexual penetration with another person without the other person's consent. Consent must be given freely and voluntarily, and the person must have the ability to consent. There can be slight differences in definitions from state to state, but it always relates to a lack of consent and the intent of the perpetrator. Some state laws include specific provisions that deal with situations involving intoxication or coercion.

Canada: In the Canadian legal context, "sexual assault" is utilized in place of "rape" as a legal concept and is referenced in Canadian Criminal code:

Sexual assault is any sexual touching, or penetration, performed in the absence of consent. Consent must be present, must be continuous, must be given freely, and the individual must have the ability to consent. The criminal law deems consent illegitimate if the consent is received through coercion or fraud. Sexual assault encompasses a broad range of non-consensual sexual experiences. The focus is on the absence of consent and the circumstance in which consent was given.

For the United Kingdom and the United States, the definitions consider the act of penetration not the gender of the victim. In the UK, an act is rape if sexual penetration into the vagina, anus or mouth by a penis; it does not matter what gender the victim or perpetrator is called. The definition in the US federal statute defining rape also includes any form of penetration, without considering gender, without consent. In Australia, legal definitions go beyond

penetration by the penis to also include any act of penetration. In Canada, the term “sexual assault” is used for a broad variety of nonconsensual acts.

Numerous legal jurisdictions have revised their legal definitions so as to encompass a more informed understanding of sexual violence. These updates typically include the use of gender neutral language and an expansion of the definition of sexual acts to include multiple forms of sexual assault and/or harassment. Within the United Kingdom, Australia and Canada, there are ongoing amendments to legislation to demonstrate a change in recognizing diverse forms of sexual violence, and ensure that laws are responsive to all genders and typologies of sexual assault.

The developments in rape laws and policies in India have moved steadily in the direction of recognizing the rights and opinions of rape victims in the criminal justice system and the processes associated with it. This has included a broadened definition of rape and a greater level of consent; new defined offences, including punishment for gang rape and repeat offenders; victim compensation schemes enacted in all states for the compensation of victims of rape; a fine imposed upon the accused being fair and just to cover the medical costs of the victim (any additional fine will be directly paid to the victim); free first aid and medical treatment made compulsory; and accountability of police and medical personnel in responding to victims of rape have all gone in the direction of helping victims of rape in India. Furthermore, India's statutory sexual assault laws did develop and improved over the years, capacity is faring in the love of statutory provisions. The UK Sexual Offences Act of 2003 had a broader definition of rape, precise consideration to the surgically constructed vagina, including male to female transsexual persons. However, at section 63, The Bharatiya Nyaya Sanhita, 2023, which notes the term 'woman' cited the overall latent language, limiting the scope of section 63 to just one gender.

Rape is a criminal phenomenon that manifests at the domestic and international level and is often subject to intense media coverage. Perpetrators of sexual violence can be of any sex, gender, age or profession and mistreatment remains a human problem that can

create deep and significant negative impact on victims. The laws do not address male rape, which is normalized in society. We have extensively addressed protection for women and girls. What about male protection? What about boys? How do we deal with a male's dignity and respect when they are an unconscionable attack upon? Society is plagued with the stereotype that a woman cannot rape a man.

The suspected suicide of a 23-year-old man, hours after being gang-raped by four men in Gorakhpur district in Uttar Pradesh, highlights the soon-to-launch Bharatiya Nyaya Sanhita, which does not include provisions akin to Section 377 or any other sections which deal with the rape of men and trans persons. A senior officer in Delhi Police who attended training sessions for the BNS told The Hindu that there was no instruction in any training sessions on how to deal with rapes of men and trans persons.

"A Parliamentary Committee had raised this issue - that there was no similar provision in Section 377 - and yet the government still went ahead with the BNS without amending the legislation. This will create a lot of problems for law enforcement," he added.

A comprehensive legal definition would address several critical areas:

**Recognition of Male Victims:** Numerous men who are victims of sexual violence experience profound psychological and emotional trauma. However, many men do not seek justice primarily because of societal stigma and inadequate legal recognition for male victims. An inclusive definition would assist in acknowledging their anguish, suffering, support, and justice.

**Response to the Gender Bias:** Existing laws perpetuate outdated gender bias regarding who is victimized in sexual violence. The law presents a view of sexual violence as primarily a crime against women. Therefore, an inclusive gender-neutral definition would promote a fairer legal system, one that embraces the circumstances of all victims.

**Obstruction of Reporting and Prosecution:** The law supporting all victims of sexual violence may allow some victims to feel more encouraged to report a crime and seek justice. The definition will also allow more comprehensive training for law enforcement, community partners, and legal professionals who need

to address the complex aspects of the male victim of sexual violence with awareness and seriousness.

**Universal System of Services:** If there is an inclusive legal definition, then all services related to sexual violence, such as therapy, legal aid, and rehabilitation services could be designed with some flexibility, thus accommodating the needs of male victims and providing appropriate care for their situation.

**International Standards and Human Rights:** Evidence from many global human rights frameworks call for gender-neutral definitions of sexual violence to provide equal, measure protection for all individuals. Victims of sexual violence are entitled to, and should receive, equity protection. The adoption of a gender-neutral or inclusive definition would demonstrate

Amending the legal definition of rape to incorporate all genders is not simply a technical change in law; it is a core step towards a more fair and just society. Such a reformism would demonstrate an intention to end sexual violence broadly and guarantee all individuals that fall victim to sexual violence are recognized, advocated, and delivered justice. India's commitment to human rights and another step towards meeting global standards of law.

## CONCLUSION

The approach in controlling the gender-based offences requires more than the mere endorsement of legal reforms. While passing and updating laws is key, it is one component of what ultimately needs to be a blend of strategies in order to bring about authentic, sustainable change. Education is key to human attitudes from the beginning to engender a culture of respect and equality. Also critical is the need for public awareness initiatives about the realities of gender-based violence, myths, and community support. Equally critical is the need for cultural shifts in orthodox norms and stereotypes of behaviour our society finds acceptable leading to violence and discrimination. The efficacy of any given new law stands in relation to the introduction and usage in this larger ecosystem. Laws cannot shift attitudes or change structures. Rather, this work must be deliberate along the lines of community activism, media, and multi-sector partnerships. Ideally, the inter-

relationships between these are coordinated to work toward an environment where the societal response to a gender-based offence is not only to punish but also to intervene to stop the cycle of violence.

The addition of gender-neutral provisions in criminal laws will foster the development of more inclusive and fair support systems overall. The gender-neutral definitions and provisions removed any gendered expectations for victim support services and assistance, removing any bias or limitations based on the victim's gender. This means the support offered is built to be accessible to everyone, creating a support system for anyone who might experience violence or crime. For instance, shelters, counselling services, and legal aid programming in many locations is being modified to accommodate the unique need of all victims, including males, females, non-binary individuals, and individuals who identify as transgender. The introduction of gender-neutral legislation ensures accessibility, but also the creation of more supportive environments where, regardless of gender, individuals will seek help without fear of discrimination or exclusion. Ultimately, gender-neutral laws benefit everyone, ensure appropriate support for victims, and work towards building a fair and equitable system for those affected by violence and crime.

The evaluation of new criminal laws on the notion of gender-based offenses is going to epitomize a significant breakthrough in recognizing and addressing the complexities of gendered violence. For many years, the legal system was often an incomplete application of justice because it disregarded the specificities of victims' experiences and their vulnerability based on gendered identities. Recent reforms are based on a belief that a fuller application of justice is to incorporate a comprehensive understanding of how gender operates in individual experiences of discrimination and violence, thereby extending the reach of justice. Substantively, these legal reforms are important in that they acknowledge that gender-based violence takes many forms and varies regardless of how people express their gender identity. Therefore, the legal reforms to gender-based offenses extend the legal protection and supports to all people. Coincidentally, these legal reforms are not just meaningful changes, they are also seen as significant

progress toward a more inclusive and equitable justice system. This progress is paramount, as both legal prosecutions and victimization by intersectional identities can add to systemic bias, oppression, and vulnerabilities in accessing justice. Yet, effectively administering any change in law goes beyond legislative change. It requires an infrastructure to respond that guarantees victims' safety and those who perpetrate violence are held accountable, which requires trained personnel, accessible support services, and services designed specifically to assist victims. The systemic supports and services provided to victims are vital to ensuring new laws effectively address gender-based violence. Outcomes from legal reforms and responses to violence can also be impacted by the continued evolution of societal attitudes towards gender-based violence and change that requires ongoing public education and awareness-based campaigns that demonstrate to sociology's value and culture of respect and equality. Legal reforms cannot impact social beliefs and biases that presently exist.

Not only do effective legislation require deep and concerted work in public education in the community, but it also requires a multi-pronged approach to effecting systemic change and progress to eliminate gender-based violence and discrimination. Efforts in legal reform must be supported by public education efforts and support programs to counteract the factors and reasons that are at the root of violence, embed education efforts that can change cultural models of respect and equality. Legal and policy efforts can only lead to change if they are sustained and collaborate with social efforts to redress discrimination based on gender identity. In conclusion, while progress has been made on the criminal law front in relation to gender-based offenses, its success will rely on how well it is implemented and society's ability to continue evolving its attitudes. A comprehensive approach that integrates legal, social, and educational strategies is essential for effecting change and pursuing genuine justice for all individuals affected by gender-based violence.

Although the current legal framework is seen as progressive in many respects, it generally does not address male rape cases adequately. This is due to a lack of specific provisions for male victims and training for those in law enforcement and the legal

profession. Legal frameworks need to be developed to ensure male rape cases are treated with sensitivity and seriousness. This means modernizing the legal definition of sexual violence to gender-neutral definitions and making male victims feel safe and supported when participating in legal processes and proceeding with their claims. Additionally, crucial societal change must also occur. The stigma and silence around male rape victims in India is another obstacle to seeking justice and support. Cultural norms regarding men and masculinity perpetuate the notion of invincibility and therefore often dismiss and discount their suffering. Breaking these socially normalised attitudes requires formally confronting and rebutting harmful gender norms through public education and awareness. Efforts to challenge the "macho" and victim myths will counter societal prejudice against male survivors of sexual violence. Moreover, much work must be done to increase and improve support services for male survivors. The creation of services and assistance structures that meet the specific needs associated with being a male victim will increase access and options for survivors. Developing a network of support and dedicated hotlines specifically for male survivors may help male survivors feel more empowered to come forward for assistance with healing and justice. Creating a culture of understanding, sensitivity, and support can help contribute to building a more inclusive and just society for all survivors of sexual violence, and not just male survivors. It is important to start with male survivors, as male survivors are a marginalized group received a lot less attention - particularly in formal settings where they experience invisibility. Prejudice related to the specific needs of male survivors may have broader implications that may apply to the general needs of sexual violence survivors in a gender diverse society.

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