



International Journal of Research Publication and Reviews

Journal homepage: www.ijrpr.com ISSN 2582-7421

BREAKING THE SILENCE: CONFRONTING THE REALITY OF MALE RAPE

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ABSTRACT :

The 21st century has witnessed significant advancements in the legal and societal recognition of individual rights and protection. However, the pervasive notion that sexual offenses predominantly affect women continues to overshadow the fact that men are equally susceptible to such crimes. The principle of gender neutrality mandates that every individual, irrespective of gender, provides equal protection against offenses, including sexual crimes. This article critically analyses the implications of extending the definition of rape and other sexual offenses to encompass men as victims. From a legal standpoint, prioritizing one gender over another in the framework of protection and culpabilities is antithetical to the principles of justice, fairness, and equality enshrined in constitutional and statutory provisions. A gender-specific approach not only perpetuates stereotypes, but also undermines the lived realities of male victims of sexual violence.

KEYWORDS: Gender, victim, sexual offences, vulnerable, equality, rape

HYPOTHESIS

As per the definition in Section 63 of Bharatiya Nyaya Sanhita, 2023 the provision for the offense of rape is explicitly confined to acts committed against women, with no recognition of rape perpetrated against men. This legal framework highlights the absence of any provision addressing male victims of sexual assaults. Is the current gender-specific definition of rape adequate?

This hypothesis suggests that there is a gap in the law that necessitates either the enactment of a separate legal provision to address the rape of men or an amendment to existing legislation to incorporate gender-neutral protections, thereby ensuring equal access to justice for all victims of such heinous crimes.

INTRODUCTION :

India is developing and increasing in the modern era, but in some areas, the socio-legal aspects have not been given enough thought. Countries with gender-neutral rape laws include the United States, United Kingdom, Canada, the Philippines, Finland, Ireland, and Australia. The definition of rape as an offense committed by men is explicitly mentioned in Section 63 of the Bharatiya Nyaya Sanhita, 2023, which writes, "A man is said to commit rape..." at the same time that the definition clause of Bharatiya Nyaya Sanhita, 2023 section 2 (19) states, "m means male human being of any age." This indicates that a country like India lacks gender-neutral laws pertaining to rape. Therefore, by examining the two portions, we can understand that the offense obviously only protects women. The Bharatiya Nyaya Sanhita, 2023, contains no such clause that punishes women or any other man who rapes another guy. A persistent misconception is that men are often strong enough to defend themselves. However, is this justification adequate to excuse women from raping other men? Rape has nothing to do with gender; it is about power. Therefore, rape as a crime against humanity must not be diminished in light of the numerous instances that occur in the contemporary society. The examination considers the scientific and sociological dimensions of expanding rape laws to recognize the victimhood of men alongside women and the culpability of both genders in such offenses. It explores how the existing legal framework can be adapted to address this issue comprehensively, while ensuring that justice is not skewed in favor of any particular gender. This discourse underscores the necessity of a truly gender-neutral approach to sexual offenses to achieve the broader objectives of equality and justice in modern legal systems.

MENTAL PSYCHOLOGY BEHIND RAPE AGAINST MEN :

Any said criminal offence is said to involve 2 basic elements namely- Actus Reus and Mens Rea. Before the commission of any criminal act the psychology behind the offence is essential to be analysed.

The commission of rape is always preceded by a want or the presence of a mental element in order to give rise to such an offence. Offences against humanity are always accompanied by a sense of urge. It is a myth that men always get triggered to commit a sexual activity but medical sciences consider both genders to have hormones that trigger such actions. Thereby, not only men but even women express a want of engaging. Thereby, considering only women as being the victims of such a sexual offence is unjust since it could be well established that even men could be prone to the said offence.

Men who reported women committing sexual assault were interviewed by Sarrel and Masters (1982), who produced the first comprehensive report on adult male victims. Psychological discomfort, post-trauma reactions, and reduced sexual functioning were observed by the researchers. Subsequent research revealed that homosexual men are more likely than women to support male rape lies, such as victim blaming, and to hold pro-victim opinions.¹

THE THOUGHT OF RAPE AS AN OFFENCE :

One in six recorded sexual attacks are against a boy, and one in twenty-five reported sexual assaults are against a male. Approximately 14% of reported rapes include men or boys. Sexual violence against males is driven by the desire to control and use sex as a weapon against the victim, just like male sexual violence against women. White, heterosexual men make up the bulk of those who commit sexual assault against men. According to reports of rape against males, one out of every six rapes is committed against a man, and about 14% of rapes include men or boys.

Research indicates that the desire to control and use sex as a weapon against the victim is the root cause of sexual violence against men. Men who have been sexually abused often suffer from severe emotional and psychological impacts, just like women survivors do. They might feel strong emotions including grief, shame, anger, and fear. The trauma may cause some people to struggle with their sense of self, including problems related to their sexual orientation or gender identity. Speaking up about their experiences is a challenge for all survivors, but for men, cultural standards around masculinity can make it even more challenging. Their voices are often suppressed when they most need to be heard because of the expectation to "stay strong" and the stigma attached to showing vulnerability.

CURRENT LEGAL FRAMEWORK :

In the context of international, regardless of the victim's gender, any non-consensual penetration (by a penis) is considered rape in the UK under the Sexual Offences Act 2003, which defines the crime in a gender-neutral manner. Terms like "sexual assault," which are not gender-specific, are used in Canada's Criminal Code to protect people of all genders. Although the exact terminology differs, many Australian jurisdictions recognize sexual violence against men under broad sexual offense statutes.² Scotland's 2009 Sexual Offences Scotland Act Intentional or careless penetration of the penis into another person's mouth, anus, or vagina without that person's consent is now considered rape under the law. In doing so, the gender-specific phrase "women" is substituted with "person," bringing male victims under the purview of rape. The Criminal Justice (Northern Ireland) Order, 2003, recognized non-consensual sexual relations involving any anyone, including male victims, changing the prior gender-specific wording. To help ensure justice for male victims, the Sexual Offences (Northern Ireland) Order, 2008, broadened categories to include oral rape.

Since in India, the definition of rape is limited to the insertion of a penis or object in the vagina, the number of cases of male rape and sexual assault has been steadily increasing. In certain cases, a 20-year-old boy in Ghaziabad was sexually assaulted by five men and had a foreign object placed in his rectum on June 16, 2018, but the case was filed under section 377 of the Indian Penal Code because our laws do not cover such offenses.³

IMPLICATIONS OF THE OFFENCE :

For male survivors, rape has significant ramifications that extend into the social, physical, and psychological spheres of their existence. Male survivors frequently struggle psychologically with severe trauma, despair, and post-traumatic stress disorder (PTSD), which can show up as persistent anxiety, nightmares, and flashbacks. Social stigmas that contradict conventional ideas of masculinity often exacerbate these symptoms, making survivors feel alone and misunderstood. Intense feelings of guilt, humiliation, or self-blame are also common among male survivors, who feel they should have been able to stop the assault. These mental health issues could result in issues with sexual identity, a lack of clarity on their sexual orientation, or trouble establishing and sustaining close relationships. A vicious cycle of loneliness and self-doubt may result from these difficulties, which may then worsen their emotional suffering.

Male survivors may sustain modest to severe physical injuries, particularly when violence is involved. Their misery takes on a physical aspect due to the prevalence of chronic pain and other psychosomatic symptoms. Moreover, survivors are susceptible to HIV and other STIs, which can exacerbate their trauma and cause long-term health issues. Due to stigma or a fear of criticism, many male survivors put off or avoid getting medical help despite these bodily consequences.

Male rape has equally catastrophic societal repercussions. Because of damaging beliefs that presume men cannot be victims of sexual violence, survivors may face public denial or discounting of their experiences. Survivors may feel alienated as a result of this denial, which may deter them from reporting the assault or getting assistance. For those who do report, their needs are frequently unmet because to the scarcity of male-specific support resources like counseling or shelters. Because of these structural flaws, survivors experience a lack of assistance and are more susceptible to other difficulties like substance misuse, suicidal thoughts, and interrupted academic or professional aspirations.

¹ Thomas JC, Kopel J. Male Victims of Sexual Assault: A Review of the Literature. *Behav Sci (Basel)*. 2023 Apr 3;13(4):304. doi: 10.3390/bs13040304. PMID: 37102818; PMCID: PMC10135558.

² ENHANCING LEGAL PROTECTIONS: TOWARDS COMPREHENSIVE RAPE LAWS FOR MEN EMPHASIZING THE FORENSIC AND MEDICO-LEGAL IMPROVEMENTS. (n.d.). In *Indian Journal of Integrated Research in Law: Vol. IV* (Issue III, pp. 610–612). <https://ijirl.com/wp-content/uploads/2024/05/ENHANCING-LEGAL-PROTECTIONS-TOWARDS-COMPREHENSIVE-RAPE-LAWS-FOR-MEN-EMPHASIZING-THE-FORENSIC-AND-MEDICO-LEGAL-IMPROVEMENTS.pdf>

³ Mahapatra, D. (2006, December 24). Rape, sodomy equal before law? *The Times of India*. <https://timesofindia.indiatimes.com/india/Rape-sodomy-equal-before-%20law/articleshow/915960.cms>

In addition, the requirements of male survivors are not sufficiently met by the judicial systems in many jurisdictions. Laws' definitions of rape may be gendered, completely eliminating male victims or presenting it in ways that are incompatible with the experiences of survivors. Biases in the legal and law enforcement institutions can erect further obstacles for male survivors seeking justice, even in cases where the legal framework is inclusive. The already severe effects of sexual violence on male survivors are made worse by a combination of societal stigma, a lack of assistance, and legal flaws.

A thorough and inclusive strategy is necessary to solve these complex issues. Increasing knowledge about male victimization can aid in dispelling negative preconceptions and empowering survivors to get support without worrying about being judged. In order to meet the special requirements of male survivors, it is imperative to expand support services, such as counseling programs designed especially for them. Another crucial element is legal change, which makes sure that frameworks specifically acknowledge and safeguard male survivors. Law enforcement, medical, and support worker training can also promote a more inclusive and empathetic response to male survivors.

Tackling the effects of rape on male survivors necessitates a dedication to understanding and equity across society. According to research, gender-inclusive strategies that affirm male experiences and give survivors the resources they need to recover and start again are crucial (Smith et al., 2020⁴; Brown, 2019⁵). It is possible to lessen the long-term effects of sexual violence and provide survivors the tools they need to recover from their trauma by promoting an inclusive and supportive society.

CONCLUSION :

The exclusion of male victims from the legal definition of rape in India is an important gap that exists in India's legal framework and societal perception of sexual violence. The world is seeing more and more that many countries have adopted gender-neutral laws to look into sexual offenses comprehensively. India's continued adherence to a gender-specific approach negates stereotypes and continues to deny justice to male survivors. This framework undermines not only the principle of equality but also disregards the physical, psychological, and social implications of sexual violence against men. Rape is a crime of power and control rather than simply a crime of sexual nature and beyond gender boundaries.

The acknowledgment of male victimhood and culpability across all genders will help create an inclusive and equitable justice system. The next necessary steps for institutional reform would be legal reforms defining rape in a gender-neutral manner, awareness campaigns, and expanded support systems for all survivors. These efforts could bring about the erosion of stigma and barriers that male survivors face. The legal system can fulfil its obligation to uphold justice, equality, and protection for all citizens before the law, regardless of gender.

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⁵ Smith, L., Jones, R., & Taylor, K. (2020). *Understanding male victimization: Psychological and social implications*. *Trauma Studies Quarterly*, 27(2), 102–119.