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**MALE RAPE VICTIMS: RECOGNIZING INVISIBLE VICTIMS AND THE NEED
FOR LEGAL PROTECTION IN INDIA**

ABSTRACT:

Male rape remains unrecognized in Indian law, despite its prevalence and profound negative impact on victims. While laws protect women from sexual violence, rape, and exploitation, men and boys are not given the same attention. This article challenges stereotypes in both law and society that diminish the recognition of male victims, highlighting the urgent need to protect their dignity and respect against sexual assault and rape.

I. INTRODUCTION:

Rape is generally understood as a crime committed by men against women, shaped by a patriarchal society that supports such violence. However, research shows that a significant number of men are victims of rape and sexual violence, although social attitudes exclude them from attention. Male rape is heavily stigmatized in Indian society, especially among heterosexual men, who fear being seen as less masculine or even homosexual if they disclose their assault. This fear discourages many male victims from reporting their experiences, contributing to the high number of reported cases. Deep-seated myths and societal expectations about masculinity further compound these issues, perpetuating a culture of silence and denial surrounding male victimhood.

Sexual violence transcends gender, age, and sexual orientation. While extensive research focuses on crimes against women worldwide, there remains a significant gap in awareness of similar crimes against men. Despite the lack of scientific support regarding emotional differences between the sexes, the word 'man' itself carries a gender bias, connoting strength,

masculine behavior, appearance, and emotional control. This common belief perpetuates a social assumption that separates male and female expression of emotions. In male-dominated

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societies, it is seen as shameful for men to disclose their experiences of grief, as it is misconstrued as 'feminine behavior'.

According to Roberta Chinsky Matuson. Many people believe that sexual violence is limited to women. There is no doubt that crimes against women are on the rise all over the world, but, indeed, crimes against men are also committed. It is unfair that society pays minimal attention to the crimes against men or the inequalities they face.¹

In India, only a woman can legally be a victim of sexual violence and at the same time, only a man can be legally considered a criminal. In cases where there is a male victim, it is not considered an offense under the Indian Penal Code, 1860.

Some countries, such as Denmark, the United Kingdom, and Australia, have proposed and adopted gender-neutral laws. It is shocking that, despite these changes around the world, the Indian judiciary has rejected demands to introduce gender-neutral laws against sexual violence in India.

II. SEXUAL VIOLENCE AGAINST MEN:

Gender-based violence transcends age, sexual orientation, and gender, affecting people regardless of these factors.

Although the discussion is often focused on violence against women, domestic violence, sexual harassment, and assault, it is important to recognize that men are victims of sexual violence.

Despite the advocacy of gender equality, this aspect is often overlooked.

Many statutes, such as Section 375 of the Indian Penal Code², define rape based on gender, making men the perpetrators and women the victims. From a legal point of view, it reinforces the old notion that women can only be raped by men, eliminating the possibility of women

¹ The scope of male rape: A selective review, policy and practice, www.ResearchGate.net

² Indian Penal Code 1860, section – 375

raping men. Requiring penile penetration as a condition of alleged rape perpetuates this bias by ignoring scenarios in which women can sexually assault men.

This is a biased issue because it undermines the principle of equality enshrined in Article 14 of the Constitution of India³. This provision guarantees equal protection under the law for all citizens, but the current legislation is not sufficient to address sexual violence against men. The

lack of legal protection for male victims perpetuates systemic inequality which is in stark contrast to the protection afforded to children under the Child Sexual Abuse Act, of 2012.

Addressing this problem requires a broader understanding of sexual violence than gender stereotypes. This includes changing legal definitions and developing support systems to include all victims, regardless of gender. By acknowledging and correcting this contradiction, society can move closer to true gender equality and justice for victims of gender-based violence.

Rape in India is defined in Section 375(3) IPC as the penetration or entry of a foreign body into a woman's vagina without her consent. This includes sex against a woman's will, by coercion, by misrepresentation or in a state of intoxication, deception or mental health, or by a person under the age of 18. This definition considers the perpetrator as a man and the victim as a woman, excluding the provision for male victims. As a result, all applicable laws only apply to female victims, which complicates legal inequality and constitutional equality.⁴

While the POCSO Act covers sexual offenses against male children, there is no similar provision for adult males. This disparity raises the question of why legal protections differ based on age. The practical reality shown by Insia Dariwala's research with 1,500 men is that men are significantly stigmatized by sexual harassment due to shame (55%), confusion (50.9%), fear (43%) and guilt (28.7%)⁵

Given India's narrow legal definition of vaginal penetration, incidents of male rape and sexual assault are on the rise, with few legal remedies. For example, the case of a 20-year-old man in

³ The Constitution of India ARTICLE 14

⁴ international Journal of Law Management & Humanities [Vol. 3 Iss 5; 434

⁵ The Guardian, May 23, 2018 / Indian – study – male – sexual – abuse – film – maker – insia – dariwala (last visited April 14, 2020)

Ghazabat who was attacked by a foreign object was classified under Section 377 of the IPC, which shows that the current law is not enough.⁶

The armed forces report incidents of sexual violence against men, focusing on wider issues. Currently, only two laws recognize that men can be victims of sexual violence, emphasizing the need for legal reform to comprehensively address this gap.

- POSCO (Protection of Children from Sexuality)
- Sexual Harassment of Women in the Workplace

Given that men can be victims of violence and women can be perpetrators, it is important to understand and emphasize the effects of such acts on the health and behavior of the community. These results can be manifested in various dimensions, including physical, psychological, social, and economic aspects. If left untreated, these experiences can lead to chronic problems such as alcoholism, stress, depression, and suicide.

Research shows that men exposed to intimate partner violence (IPV) may experience physical trauma (Haines & Douglas, 2010; Mills et al., 2006), but do not always report impaired physical health (Reid et al., 2008; Coker et al. . , 2008., 2008). However, survivors of physical and psychological IPV report the use of alcohol, as well as therapeutic and recreational drugs (Coker et al., 2008; Afifi et al., 2009), suggesting indirect physical harm; men's health victims⁷.

These findings highlight the need for greater recognition and support for male victims of violence, not only for physical trauma, but also for the long-term effects on behavioral wellbeing and overall health.

⁶ Dhananjay Mahapatra / TNN / Dec 24, 2006 and 23: 11 1st , Rape, Sodomy equal before law ? / India News – Times Of India.

⁷ Hines, D. Douglas, E. (2010) Intimate terrorism by women towards men: does it exist? Journal of Aggression, Conflict and Peace Research. Vol 2, No 3: 36-56

Recently, four women in their 20s from Jalandhar, Punjab, were reportedly raped after a man was kidnapped. They kept him in captivity for about 11 hours before releasing him and after drugging him, repeatedly raped him⁸.

III. LAWS IN OTHER COUNTRIES REGARDING MAKE RAPE

The evolution of rape law in the UK has marked important steps towards inclusivity while retaining gender specificity. Initially, the Criminal Justice and Public Relations Act of 1944 amended the law to recognize anal and vaginal penetration, marking the first formal recognition of male rape in the legal system. As a result, the Sexual Rights Act 2003 in England and Wales further improved these laws and removed vague descriptions relating to oral sex and indecent assault. Despite this progress, the definition of rape in the UK still includes penile penetration, which means that women cannot be accused of rape by men under current law.

The Sexual Offenses in Scotland (Scotland) Act 2009 made a more drastic change by defining rape as "intentional penetration of the mouth, vagina or mouth of another person without the consent of a member of the sex group and without any suspicion". agreed. This definition

replaces gender designations such as "female" with "male" and expands the scope of statutory rape.

Similarly, in civil rights countries such as the United States and Canada, efforts are being made to make rape laws more gender neutral. According to the United States Department of Justice (2012), rape is "vulva or anus penetration with a body or body part, or oral penetration with the genitals of another person" with the consent of the victim. "

Despite this gradual change in some countries, such as India and Pakistan, rape continues to be considered a gender-based crime involving mostly male perpetrators and female victims. This reflects the ongoing debates and challenges in achieving gender neutrality and ensuring fair legal protection for victims of gender-based violence worldwide.

⁸ <https://theguardian.com/jalandhar-male-rape-are-men-safe-in-india>

IV. GENDER NEUTRALITY OF RAPE LAWS

The 174th Law Council of India recommended in March 2000 that rape laws in the country should be gender neutral to extend protection to male victims. The proposal believes that such changes will eliminate rape and reduce the stigma associated with it. Despite these recommendations, the government has not taken steps to implement these recommendations.

Gender neutrality in rape law is an important and growing aspect of legal frameworks around the world. This refers to the idea that the law should treat all genders equally when defining and addressing gender-based violence. Historically, many legal systems have primarily framed rape as a crime committed by men against women. However, it is increasingly recognized that people of any gender can be victims of rape and that perpetrators can be of any gender.

The movement towards gender neutral rape laws aims to ensure that all victims, regardless of gender, have equal protection under the law and access to justice and support services. This approach acknowledges the diversity of victims and perpetrators, demonstrating a broader understanding of sexual violence than traditional stereotypes.

In countries where rape laws are traditionally gender-specific, advocacy and legislative reforms have been undertaken to expand these laws to include all victims and perpetrators. This includes recognizing that men, non-binary people and transgender individuals can be victims of violence and sexual harassment.

Challenges remain, including the need for gender-neutral rape laws, including societal attitudes, cultural norms, and comprehensive support systems for victims of all genders.

However, progress in this area is essential to achieve justice, equality and protection for all victims of sexual violence.

In 2017, advocate Sanjiv Kumar filed a public interest litigation in the Delhi High Court, arguing that the rape laws under the IPC were constitutional. She advocated gender neutrality, saying that men can be victims of the same behavior as women, and that rape by men is not uncommon. Without gender-neutral laws, many people would be denied justice, he said.⁹

⁹ Flavia Agnes, Law Ideology and female Sexuality: Gender Neutrality in Rape Law 37Econ. Polit. Wkly. 844-847 (2002)

With this in mind, in July 2019, Rajya Sabha senior advocate and Member of Parliament KTS Tulsi introduced the Sex-Neutral Offenses Amendment Bill, 2019 in Parliament. Tulsi said that all gender-based violence must be gender-neutral to restore balance, and noted that men, women and people of other genders can be both perpetrators and victims of gender-based violence. He stressed the importance of ensuring equal protection under the law for all genders.

These efforts reflect ongoing debates and legislative initiatives aimed at addressing the need for gender-neutral rape laws in India, a broader understanding of gender-based violence and the diverse experiences of gender-based victims and perpetrators.

The following changes should be made as soon as possible: ○ Gender neutral laws should be implemented by abolishing gender-based laws ○ Men must address sexual violence in the workplace in 2012.

○ Campaigns, reports, articles, etc. spreading awareness about sexual violence against men; ○ Just as there is a separate court for women, Mahila Adalat should also be a separate court for men. ○ A separate commission should be set up to investigate crimes against men specifically and the same should be done for women. ○ Male and female perpetrators of sexual violence must be punished equally without any discrimination.¹⁰

In 2013, the Government of India enacted the Criminal Law Amendment Act based on the recommendations of the Justice Verma Committee. A significant change was the replacement of the word "rape" with "sexual assault" to broaden the scope of the law to include all genders. The amendment aims to provide more comprehensive protection against sexual violence.

However, these changes faced criticism and resistance, especially from feminist groups and women's organizations. They argued that advocacy of gender-neutral laws could undermine feminist efforts and viewed rape as a crime rooted in patriarchal structures and power dynamics. These groups believed that specific recognition of rape as a crime against women was crucial to addressing gender-based violence and asserting women's rights.

The discussion highlighted different perspectives on how best to address sexual violence in India. While some advocated gender neutrality to ensure equal protection and recognition of

¹⁰ Sexual Violence against Men in India
By Jahnvimehta

all victims, others emphasized women's unique experiences and vulnerabilities with respect to rape and sexual assault. These tensions reflect broader societal debates on gender, justice, and the role of law in addressing gender-based violence.¹¹

V. CONCLUSION

Historically, women have long been exploited for the pleasure and comfort of men, often resulting in mental slavery and degradation. This systemic inequality persists today, exacerbated by the legal loophole in Section 375 of India's IPC, which fails to recognize male victims or female perpetrators. The lack of gender-neutral rape law undermines fairness and equality and perpetuates soft sentences.

The need for gender neutrality in rape laws is important as the Criminal Law (Amendment) Act 2019 seeks to remedy this injustice. The principle of criminal law requires equal protection for all people regardless of sex, recognizing that torture and violation of rights are not related to biological differences. Therefore, there is a need to change the law to ensure justice for all victims and accountability for all perpetrators, regardless of gender.

In summary, to achieve true equality requires closing legal gaps and adopting gender neutral laws that protect everyone from sexual violence, thereby promoting a society where justice and fairness applies to all.

¹¹ Praveen, supra note 11.