BREAKING GENDER NORMS: A CRITICAL STUDY OF LEGAL RESPONSES TO SEXUAL OFFENCES AGAINST MEN IN INDIA

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ABSTRACT

India's rape laws are built on a dangerous presumption that women can only be victims and men can only be perpetrators. This paper, Beyond Gender Norms: A Critical Study of Legal Responses to Sexual Offences Against Men in India, tears apart this regressive narrative, by exposing the legal vacuum and societal blindness toward male survivors of sexual violence. While Article 14 of the Indian Constitution promises equality, Indian criminal law delivers selective justice by excluding men and transgenders from the very definition of a rape victim. The 2023 repeal of Section 377 IPC under the Bharatiya Nyaya Sanhita didn't just remove a law, it erased the only legal recognition that male victims had, leaving them legally invisible. This research draws from survivor accounts, psychological studies, and legal comparisons with nations like the UK, Canada, South Africa, and the Philippines, all of which have openly embraced gender-neutral rape laws. The paper exposes how societal expectations of masculinity like "men don't cry," "men can't be victims", not only silences survivors but also shields the perpetrators. It calls out the hypocrisy of a legal system that protects boys under 18 but abandons them the moment they become adults. Through evidence, case studies, and global models, this paper demands an urgent reform: a criminal justice system that recognizes all survivors, regardless of gender. Until then, Indian law remains complicit in the silencing of countless men who were raped and never allowed to speak.

Keywords: Sexual abuse, Male rape survivors, gender-neutral laws, Section 377, legal invisibility

I was thrown face-down on the floor... 'shut up, queer—you get what you deserve,' he said, and then he raped me. I wanted to die."

— Anonymous male survivor, quoted in Stephanie Allen's Male Victims of Rape: Responses to a Perceived Threat to Masculinity

I. INTRODUCTION

Men get raped? Men-the most sexual animals on Earth.

The constitution of India grants the fundamental right to equality to its citizens. The word citizen here, is inclusive of women, trans and MEN. The law not only provides the right to equality and justice to all but also prohibits discrimination on the grounds of religion, colour, caste, place of birth or sex. Articles 14¹ and 21² of the Constitution are of specific importance in this regard. However, this very law fails to provide basic provisions for any act of sexual offence advanced towards men in our society. The law apparently believes that "Men" somehow are equipped with some sort of superpowers that prevents them from getting raped or being subjected to any act of sexual violence.

As per the lawmakers, a MAN is the only possible perpetrator and a female is the only possible victim. The have refused to see outside this paradigm and have refused to even consider the possibilities of male being raped by a male, male being raped by a female or rape of transgenders.

Section 375³ of the Indian penal code,1860 (IPC), in its traditional form, laid out a highly gendered definition of rape- an act where a man commits sexual penetration against a woman, without her consent. The said statute framed rape as a crime by a man against a woman, where women are the only possible victims and men, the only possible penetrators.

Section 377⁴ of Indian Penal Code which was often maligned for its colonial roots, criminalized 'carnal intercourse against the order of nature'. Although this section was heavily criticized for being used to harass the LGBTQ+ community yet this very section, ironically, was the only

¹The Constitution of India, art. 14

²The Constitution of India, art. 21

³The Indian Penal Code, 1860 (Act 45 of 1860), s. 375 (India)

⁴The Indian Penal Code, 1860 (Act 45 of 1860), s. 377 (India) (prior to decriminalization by *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1)

legal doorway through which the sexual assault of men or any non-consensual act involving anal or oral penetration could even remotely be acknowledged under Indian law.

Now, with the coming of this 'progressive overhaul' of criminal law in the name of Bharatiya Nyaya Sanhita (BNS) 2023, came a silent yet brutal erasure. While the core of section 375 of IPC remains intact under the garb of section 63⁵ of the BNS, which although is still very female centric but section 377? Completely vanished. Erased. repealed. Gone. Section 377 has been completely scrapped, leaving no legal space whatsoever for male victims of rape. By removing although flawed yet the only recognition to male victims of sexual assault, BNS has now codified what the society has long whispered, that men are not allowed to be victims.

Men are often deterred by the social stigma, shame and believes like 'Mard ko Dard nahi hota' or 'Men don't cry'. They are made believe that victimization is not an option for males. Men are expected to fulfil the social narratives and ideals of so called 'masculinity'. Any male not fulfilling such ideal will be labelled as 'gay' or 'not real men'. Apparently, society has provided a yardstick in the form of these ideals which measures the hegemonic masculinity. A man who is subjected to sexual offence or assault faces various factors which lead to self-blaming and reluctancy in seeking help. Such factors include- firstly, being victimized by the perpetrators, secondly, people jeer at such victims and they may face rejection by family and friends, then they receive discomfort treatment at the hands of law⁶. As per the PEW statistics in 2014⁷, in the online platform around 25% of women between the age group of 18-24 years and around 13% of men between the age group of 18-24 years had faced or experienced sexual assault or harassment.

India has long been engaged in the battle to safeguard women against sexual violence—a fight that is both necessary and deeply rooted in history. While it is undeniable that women constitute the majority of victims in such cases but this reality cannot and should not justify the complete neglect of male victims of sexual abuse. Our legal system offers multiple protective legislations for women, yet not a single statute exists to address or safeguard the rights of male survivors. Historically, the vulnerable status and social position of women warranted the need for gender-

⁵The Bharatiya Nyaya Sanhita, 2023, s. 63 (India)

⁶ Shubham Tiwari, Beyond Gender Norms: A Critical Study of Legal Responses to Sexual Violence Against Men in India (Ph.D. dissertation, Gujarat Nat'l L. Univ., 2023).

⁷Pew Research Center, Part 1: Experiencing Online Harassment (Oct. 22, 2014), available at https://www.pewresearch.org/internet/2014/10/22/part-1-experiencing-online-harassment/

specific protections, but what justifies the absolute lack of legal recognition and protection for men? In a society striving for equality, selective empathy is not justice.

II. LEGAL FRAMEWORK IN INDIA

Sexual offences mean any form of unwanted sexual activity on physical, intellect or mental degree of consciousness leading to invasion of private space, suppression of will, infliction of pain, making the victim feel harassed.⁸

IPC does not provide for the definition of sexual offences and all sexual offences, except Section 377, are made gender specific, that is, the victim is always deemed to be a woman while man is seen as the perpetrator⁹. Sexual offences can be defined as a range of offences wherein the sexual sanctity and bodily integrity of an individual is interfered with or without his/her consent¹⁰

Currently, only section 375 of IPC, 1860 (now section 63 of BNS,2023) defines rape. Of all the crimes, rape is the most obnoxious one which violates bodily integrity and honour of a woman. The word "Rape" has its origin from a Latin term "rapio" which means "to seize". Precisely it means forceful seizure.

As stated by Section 375, Indian Penal Code, A man is said to commit rape if he penetrates his penis through any extent into the vagina, mouth, urethra or anus of a woman or inserts any object, to any extent, or any part of a body other than the penis into the vagina, urethra and anus of a woman or put in his mouth into the vagina, urethra or anus of a woman or makes her to do so with him or any other person, under the circumstances falling under following descriptions:

- Opposed to her will.
- In the absence of her consent.
- With consent when it has been acquired by putting her or any other person related to her under the fright of death or hurt.

^{8&}quot;Sexual Offences, Law Insider, available at https://lawinsider.in/columns/sexual-offences.

⁹Rumney, Philip N. S., In Defence of Gender Neutrality within Rape, 6 Seattle J. for Soc. Just. 40 (2017).

¹⁰ibid

- With consent obtained under the misconception of fact that the man was the person she was lawfully married to.
- When the consent is given by reason of unsoundness of mind or intoxication of any stupefying or unwholesome substance.
- When the girl is minor, no matter the consent is given or not.
- When she is not able to provide her consent.

But even this provision remains highly female centric and fails to recognize the possibility of men being the victims of such offence.

Section 377 of IPC was the only legal avenue through which male victims of anal rape (carnal intercourse against the order of nature) could seek justice, albeit even within a framework which stigmatized homosexuality, which after the landmark judgment of Navtej Singh Johar v UOI was read down to decriminalize consensual acts and retained its applicability to nonconsensual acts and bestiality. However, with the coming of BNS,2023 men were stripped away of this sole protection. BNS has erased the only statutory recognition of male and queer sexual victimization under adult criminal law.

POCSO act of 2012, is one of the only gender-neutral sexual offence laws in India which protects any person below the age of 18, regardless of gender, from any penetrative and non-penetrative sexual assault and harassment.

As per the NCRB¹¹ 2021 report, Out of over 47,000 POCSO cases, a substantial number involved male victims, especially under "unnatural offences" or Section 377. National Study on Child Abuse¹² (2007, MoWCD) found that 53% of surveyed children had experienced some form of sexual abuse — and 52.94% of those were boys.

But the drawback of this law is that, it only provides protection to men under the age of 18. If the state can recognize that boys and trans children can be sexually violated and deserve equal protection, then why does it abandon them the moment they turn 18? What changes at midnight

¹¹ National Crime Records Bureau, Crime in India (2021).

¹²Ministry of Women & Child Development, Child Abuse Report (2006), available at https://wcd.nic.in/sites/default/files/childabuse.pdf

on a boy's 18th birthday — his biology, his vulnerability, or just the law's willingness to protect him? Its almost hysterical at this point that a 17-year-old boy raped by a man is a victim under POCSO, but a day later he is just a legal anomaly.

Even the POSH act only provides protection to women against sexual harassment at work place. Again the lawmakers while framing this law, were of the belief that no sexual harassment can happen to men at workplaces because after all they are "MEN" a symbol of masculinity, Strength, power and Dominance. Vulnerability does not fall under the definition of 'men'.

An evaluation of the Criminal Laws (Amendment) Draft 2013, the Criminal Laws (Amendment) Ordinance 2013 and the final Criminal Laws (Amendment) Act, 2013 clarified that at its inception the Justice Verma Committee formulated a gender-neutral draft in many aspects such as it contained gender neutral rape laws and gender-neutral sexual harassment at workplace laws. However when the final Act came, its gender neutrality was ignored as unimportant and didn't become the part of the final Act.¹³

III. SOCIETAL BARRIERS AND PSYCHOLOGICAL IMPACTS:

The problem is not just the lack of legal provisions, but also the deep-rooted societal stigma which portrays men as these super masculine creatures who portray dominance, strength and sexual invincibility. Men are raised to believe that they cannot be victims, they can be only protectors of perpetrators. We are raised in an environment where male vulnerability is seen as a weakness and sexual victimhood is perceived as unmanly. As a result of which, male survivors often due to fear of being mocked, being labelled as homosexual or not believe, do not come forward to report such acts. Even when they do attempt to speak up, they are ridiculed and silenced. Their so called "masculinity" is questioned. They are declared weak and not manly enough. This trivialization leads to psychological harm and suppresses reporting. In another similar study on justice for male rape victims¹⁴ one participant wanted to kill himself after police refused to recognize his rape case. This clearly highlights the need of adequate support for male victims particularly within the criminal justice and healthcare systems so as to prevent actions which can lead to extreme outcomes such as suicide. In research conducted by Siobhan Weare, Joanne Hulley and Duncan craig for their article on help-seeking barriers

¹³ Crime of Rape and Laws: Need of Gender-Neutral Approach, 1.1 Vidhi Socio-Legal Rev. 59 (2019).

¹⁴ Alam, M. T., Abbas, A., Mutmainnah, I. & Tonny, S. A., Addressing the Legal Void: Ensuring Justice for Adult Male Rape Victims in Bangladesh, 51 Int'l J. Legal Info. 105 (2024).

encountered by male victims/survivors of female-perpetrated sexual abuse, 30 men were interviewed from UK who self-described as having been subjected to forced sexual intercourse by a woman during their lifetime. One of the victims' said,

"The fact that as a man you might be raped, you might be sexually assaulted or whatever it is, goes against the mythos of the male who's the protector and not the one that needs protecting . . . and I think that challenges, our view of ourselves . . . it challenges that view that's been centuries building up, and lots of our institutions, you know state institutions . . . perpetuate that image." ¹⁵

In a comparative study of male and female rape victims seen at a hospital-based rape crisis program, it was observed that male victims were rated as more depressed and hostile immediately post rape than female victims¹⁶. In another study¹⁷, a total of 40 male rape victims were asked to provide details of their assaults, level of psychological disturbance, long term effects etc. results revealed that all of the victims reported some form of psychological disturbance as a result of being raped and the long-term effects included anxiety, depression, increased feeling of anger and vulnerability, loss of self-image, emotional distancing, self-blame and self-harming behaviours.

The participants in an empirical study conducted by Siyabulela Eric Mgolozeli¹⁸ described reexperiencing the rape incident when trying to sleep, when alone at home, or when busying themselves with other activities. Jonathan, a 34-year-old man who was pounced upon, strangled and raped by his fellow inmates in jail, likewise describes how involuntary re-experiencing of the rape incident occurs when he is attending to other activities of his daily living:

"I would be trying to keep myself busy with other things, but this just comes, and I feel like those guys are strangling me, and my body will just feel pain all over."

Questioning of gender identity by men who experience rape victimization has been reported in

¹⁵ Weare, S., Hulley, J. & Craig, D., "Nobody Believes You If You're a Bloke': Barriers to Disclosure and Help-Seeking for Male Forced-to-Penetrate Victims/Survivors," 30 Int'l Rev. Victimology 596 (2024).

¹⁶ Frazier, P. A., A Comparative Study of Male and Female Rape Victims Seen at a Hospital Based Rape Crisis Program, 8 J. Interpers. Violence 64 (1993).

¹⁷ Walker, J., Archer, J. & Davies, M., "Effects of Rape on Men: A Descriptive Analysis" 34 Arch. Sex Behav. 69 (2005).

¹⁸ Mgolozeli, S. E. & Duma, S. E., "'Whenever I think about this, I feel like killing myself...': An exploration of the consequences of rape victimization for men" 20 Int'l J. Qualitative Stud. Health Well-Being (2024).

various studies¹⁹. There are dimensions of rape trauma in men which do not necessarily manifest in women, because rape does not affect their gender identity or make them feel like they are being turned into men²⁰. For example, one participant who incurred anal tears from the rape incident reported that "I had to use pads [sanitary towels] to protect my underwear, because I was bleeding. That made me feel like a woman".²¹

A recent qualitative study by KP and Panicker in Delhi (2019)²² explored the painful experiences of boys and resultant fear, anger, rage and shame among them due to the instances. One of the participants in the study said. "(I) was told that I will be killed. I got scared…even I cried, it was really painful". Such studies and reports clearly show that sexual abuse has the same impact on both males and females.

The above studies and findings show that there is a need for psychological interventions tailored to men who are victims of sexual assault as men may be prone to mental health conditions due to failure to conform to the prescripts of hegemonic masculinities²³

IV. PRACTICAL REPORTS:

The most glaring example of the plight of male rape survivors is that of Vinodhan, a young man from Chennai. In the media frenzy that followed the brutal rape of the 23-year-old in Delhi, Vinodhan was moved to write about his traumatic gang rape incident at the age of 18^{24} . Many male rape survivors like Vinodhan have silently suffered for many years with no recourse to the law and nowhere to turn to for psychological relief. Several other victims have also come out with their stories such as Krishnan, who was raped in Kerala and was too ashamed to come out in the open²⁵. It is time these victims were given access to justice and a platform to vent their grievances. There have been cases²⁶ wherein the squeezing of testicles has been held to be an offence coming under the head of 'grievous hurt' under Section 320 of the Indian Penal Code. The courts have not examined this offence under sexual assault, nor have they explored

¹⁹ Davies, M., "Male sexual assault victims: A selective review of the literature and implications for support services" 7 Aggress. & Violent Behav. 203 (2002).

²⁰ Supra 9

²¹ Ibid

²² Countercurrents, Male Child Sexual Abuse: A Feminist Agenda for Research and Action (May 2021), available at https://countercurrents.org/2021/05/male-child-sexual-abuse-a-feminist-agenda-for-research-and-action/

²³Ezeugwu, C. R. & Ojedokun, O., "Masculine Norms and Mental Health of African Men: What Can Psychology Do?" 6 Heliyon e05650 (2020).

²⁴ Priya M. Menon, Lacking support, male rape victims remain silent, The Times of India, (February 6, 2013).

²⁶ State of Karnataka v. Shivalingaiah alias Handigidda, 1988 Supp SCC 533 : AIR 1988 SC 115. (India)

the possibility of doing so. This is a clear illustration of the huge disparity in analysing rape and sexual assault committed against men as opposed to those committed against women. There is a pressing need to legislate on this aspect, with the judiciary and the general public lending a helping hand in the implementation of the same²⁷.

National Human Rights Commission Report 2007-11²⁸ India, reports the reason for majority of suicides in jails are same sex rapes. According to Police data accessed by IANS seven cases male inmates being raped were registered in year 2014²⁹. Centre for Civil Society made a revelation that 18 percent of adult males have been coerced or forced to have sex, shockingly, of those 18 percent, 16 percent claim of been forced or coerced by a female, while 2 percent claim to have been forced or coerced by a male³⁰. A study conducted by the Ministry of Women and Child Welfare, 2007³¹, found that 53.22 percent of children in India have faced one or other forms of abuse, out of which 52.94 percent were boys. As per the NCRB³² 2021 report, out of over 47,000 POCSO cases, a substantial number involved male victims, especially under "unnatural offences" or Section 377. National Study on Child Abuse,2007 (MoWCD³³) found that 53% of surveyed children had experienced some form of sexual abuse, and 52.94% of those were boys³⁴.

In 2018, a study by the Centres for Disease Control and Prevention (CDC)³⁵ a national public health agency of the United States, revealed that nearly a quarter (24.8 pc) of men in the US had experienced some form of contact sexual violence in their lifetime, and about one in four male victims of completed or attempted rape first experienced it between the ages of 11 and 17.

In India, no such conclusive data on sexual offences against men exists. With a number of reports and statistics on cases of sexual violence against women, complete lack of data on male sexual abuse, and lack of laws do not take away the reality that such incidents do happen,

²⁷ Rethinking Rape: Should the Law Still Confine to the Paradigm?, 2.1 NLUJ LR (2013) 56

²⁸ National Human Rights Commission (India), Suicide in Prison (n.d.).

²⁹Rapes in Tihar: Silence Is the Key, IANS, Bus. Standard (July 11, 2015).

³⁰"Centre for Civil Society, India's Law Should Recognize That Men Can Be Raped Too, New Delhi, India.

³¹Ministry of Women & Child Development, Child Abuse Report (2006), available a https://wcd.nic.in/sites/default/files/childabuse.pdf

³² National Crime Records Bureau, Crime in India, available at https://ncrb.gov.in/en/crime-india

³³ Ministry of Women and Child Development,2006

Ministry of Women and Child Development, Study on Child Abuse: India 2007 (2007), available at https://cjp.org.in/wp-content/uploads/2017/11/MWCD-Child-Abuse-Report.pdf

^{35 &}quot;2021 Journal Report," Centers for Disease Control and Prevention, available at https://wwwnc.cdc.gov/eid/page/2018-Journal-Report

although far fewer than the number of cases ad reports on women abuse yet it does not mean that we can simply ignore the cases of sexual abuse happening against men.

Reynhard Sinaga case is a global proof that men can too be raped, they are not immune to being abused. Reynhard Sinaga, Britain's most prolific rapist who is believed to have targeted more than 200 victims, 60 of whom remain unidentified. Sinaga, who was a postgraduate student, would wait for men leaving nightclubs and bars before leading them to his Princess Street flat on the edge of the city centre. He drugged his victims before assaulting them while they were unconscious, often filming his rapes and collecting so-called trophies from them, such as mobile phones. When the victims woke up, many had no memory of what had happened. He was caught after one victim awoke as he was being abused and defended himself, before reporting the incident. Assistant Chief Constable Mabs Hussain said as a result of further evidence "coming to light" since the trial, investigators had identified a further 23 victims and "now believe that Sinaga committed sexual offences against 206 men" ³⁶

In 2014, police in Muzaffarnagar, UP, registered cases against three inmates of a government-run protection home, for allegedly "sodomising" a fellow inmate³⁷, and a Madrasa teacher, for similar sexual assault on a 12-year-old student in Shamli³⁸. A further slew of cases was reported in 2017 in Mumbai, when a 13-year-old boy was raped in Powai³⁹ and another 16-year-old schoolboy was raped, blackmailed and physically assaulted by 15 other boys for a year, the shocking incident confirmed by a medical examination.⁴⁰

V. FOREIGN LEGISLATIONS:

Sexual and domestic violence laws in many countries have evolved to adopt a more genderneutral framework. India, thus should also take note of these progressive legal frameworks and institutional reforms and make its laws more gender neutral.

International Humanitarian Law:

Rape and other forms of sexual violence cause physical and psychological harm to their victims

³⁶ Reynhard Sinaga: UK's Most Prolific Rapist, BBC News (Dec. 11, 2020), available at https://bbc.com/news/uk-england-manchester-55276209

Dangerous Silence Around Male Sex Abuse in India, Media India Group, available at https://mediaindia.eu/society/dangerous-silence-around-male-sex-abuse-in-india/

³⁸ ibid

³⁹ ibid

⁴⁰ ibid

women, girls, men and boys – and have a direct impact on their families and communities.
When such acts are committed in the context of an international or non-international armed conflict, they constitute violations of international humanitarian law (IHL).⁴¹

*United Kingdom*⁴²:

The Sexual Offences Act 2003 in the UK marks a paradigm shift by defining rape and sexual assault in gender-neutral terms. The law criminalizes non-consensual penile penetration of the mouth, anus, or vagina of any person. The law explicitly recognizing male and transgender victims. Beyond the statutory inclusivity, UK also offers specialized services through programs like the Male Survivors Partnership⁴³ and dedicated police units trained to handle male victim disclosures sensitively.

Canada⁴⁴:

Canada has embraced a gender-neutral definition of sexual assault since Bill C-127 (1983) amended its Criminal Code. All forms of non-consensual sexual contact are classified under the umbrella of "sexual assault, "which are applicable regardless of gender. Courts treat sexual assault as a violation of personal autonomy and dignity, not a crime defined by the gender of the victim.

South Africa⁴⁵:

South Africa's Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 defines rape as any non-consensual penetration, regardless of the gender of the victim or the perpetrator. The law was specifically crafted to be inclusive and sensitive to the diverse gender and sexual identities. It also mandates support services for all survivors, making it one of the more progressive systems globally.

⁴¹ Sexual Violence, International Committee of the Red Cross, available at https://www.icrc.org/en/law-and-policy/sexual-violence

⁴² Sexual Offences Act 2003, c. 42 (U.K.), available at https://www.legislation.gov.uk/ukpga/2003/42/contents

⁴³ Male Survivors Partnership, Allen Lane, available at https://allenlane.org.uk/male-survivors-partnership/

⁴⁴Criminal Code (Can.), available at https://publications.gc.ca/collections/.../J12-11-3-eng.pdf

⁴⁵Sexual Offences Act 32 of 2007 (S. Afr.), available at

 $https://www.saps.gov.za/resource_centre/acts/downloads/sexual_offences/sexual_offences_act 32_2007_eng.pdf$

*Philippines*⁴⁶:

The Republic Act 11648 (2022) in the Philippines broadened the definition of rape, raising the age of consent to 16 and clearly making it applicable to "any person", regardless of gender. This reform was widely praised by human rights and child welfare organizations as a step toward universal victim protection and gender neutrality.

VI. CONCLUSION:

"It happened to me too but no one believes me."

These silent words echo in the hearts of countless males who have been subjected to sexual abuse. These echoing words go unheard and unseen by a justice system that refuses to see beyond gender. In a country where the Constitution promises equality to *each and every* citizen, it is extremely heartbreaking to see that our laws still define rape through a gender biased lens. Our legislation makers fail to understand the fact that trauma does not discriminate. While women's rights are fiercely protected (as they should be), the pain of male victims is trivialized, mocked and dismissed as weakness. "Be a man," they're told, as if masculinity is an armour against abuse. In order to truly move beyond gender norms, we must rewrite our laws and undo centuries of silence. The Bharatiya Nyaya Sanhita must adopt a gender-neutral definition of rape. The protective shadow of Section 377 must be reimagined. Male survivors deserve specialized support centres, trauma-informed police response, and laws that affirm their reality. India must also collect data, train its institutions, amend the POSH Act for inclusivity, and run campaigns that say out loud what society fears to whisper: *Men can be victims too, and their pain matters*. Until we do this, our claim to justice remains incomplete.

⁴⁶Republic Act No. 11648 (2022) (Phil.), available at https://lawphil.net/statutes/repacts/ra2022/ra_11648_2022.html