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Gender-Neutral Laws in India Regarding Sexual Offences

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ABSTRACT

Sexual offences represent profound violations of human dignity, inflicting severe physical, psychological, and emotional trauma. Under the social contract, the state bears an absolute responsibility to protect the fundamental rights of every individual, and the persistence of sexual violence reflects systemic gaps in these protective mechanisms. Historically, criminal jurisprudence framed sexual offences through a cis-heteronormative binary, recognising women exclusively as victims and men exclusively as perpetrators. This rigid framework leaves marginalised groups, including adult men, transgender persons, and non-binary individuals, without adequate statutory protection. This paper offers a comparative legal analysis of the sexual offence frameworks of India and Australia. While Australia has largely shifted toward gender-neutral statutory language across its states and territories, India retains a gender-asymmetric model for adult victims under its criminal codes. The study traces the historical evolution of these laws, analyses the relevant constitutional mandates, and examines institutional resistance to reform, including concerns over false counter-claims and patriarchal assumptions. Drawing on statutory frameworks, judicial precedents, and human rights instruments, the paper argues for legislative reform in India to secure equal protection of the law for all victims of sexual violence, regardless of gender.

Keywords: Gender-neutral laws; sexual offences; comparative jurisprudence; Indian Penal Code; Bharatiya Nyaya Sanhita; Australian criminal law; transgender rights; human rights.

I. INTRODUCTION

The primary goal of criminal law is to protect vulnerable individuals from harm and to punish conduct that threatens the social order. Among such conduct, sexual offences are uniquely damaging, violating both bodily autonomy and psychological well-being. Because these crimes strip victims of their core human rights, the law must offer clear, accessible, and comprehensive

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avenues for justice. When statutory definitions are bound by rigid gender roles, however, the law itself can create gaps in protection, leaving certain groups without legal recourse.¹

For generations, legal systems across the world viewed sexual assault through a patriarchal lens. Rape was historically treated less as a violation of a person's bodily integrity and more as a property crime against a woman's father or husband.² This view created a strict legal binary in which the perpetrator was always male and the victim always female. While the framework recognised the widespread reality of male-on-female violence, it ignored other forms of sexual abuse, leaving no room in law for male victims, female perpetrators, or sexual violence within marginalised communities such as transgender and non-binary individuals.³

Modern human rights standards require a reassessment of these historical structures. International declarations emphasise that protection from violence is a universal right that should not depend on gender identity.⁴ Many developed jurisdictions have responded by modernising their criminal codes. Australia, for instance, has systematically updated its state and territorial laws to adopt gender-neutral language, shifting the legal focus from the gender of the parties to the core issues of consent and bodily violation.⁵

India's legal transition has, by contrast, been more complex. Although the country has updated its laws to address emerging crimes and to protect minors in a gender-neutral manner, its primary laws governing adult sexual offences remain strictly gender-specific. This creates a situation in which adult men and transgender individuals who experience sexual violence lack equivalent statutory remedies under the primary assault laws. This paper examines these issues by comparing the legal frameworks of India and Australia, considering their historical contexts, analysing key judgments, and evaluating the constitutional arguments surrounding gender-neutral legal reform.

II. HISTORICAL EVOLUTION OF RAPE LAWS IN INDIA

Understanding the current state of sexual offence laws in India requires an examination of their historical development. The codification of Indian criminal law began during the colonial era with the drafting of the Indian Penal Code in 1860 by the First Law Commission, chaired by

¹ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III), arts. 2, 7 (Dec. 10, 1948).

² CRIME PREVENTION AND CRIMINAL JUSTICE SECTION, *United Nations Manual on the Prevention and Control of Computer-Related Crime*, Int'l Rev. Crim. Pol'y, Nos. 43-44 (1994).

³ Criminal Law (Amendment) Act, No. 13 of 2013, India Code (2013).

⁴ MODEL CRIMINAL CODE OFFICERS COMMITTEE OF THE STANDING COMMITTEE OF ATTORNEYS-GENERAL, *Chapter 5: Sexual Offences Against the Person* (Austl. 1999).

⁵ See AUSTRALIAN LAW REFORM COMMISSION, *Equality Before the Law*, Report No. 69 (1994).

Thomas Babington Macaulay.⁶ Section 375 of the Indian Penal Code defined rape strictly as an act committed by a man against a woman without her consent. For over a century, this statutory definition remained largely unchanged, reflecting Victorian-era views on morality and gender roles.

The first major shift in public awareness and legal policy occurred in the late 1970s, following the Mathura rape case, *Tuka Ram v. State of Maharashtra*.⁷ In that case, a young tribal woman was sexually assaulted by police officers inside a police station. The Supreme Court of India overturned the High Court's conviction of the officers, finding a lack of visible physical injury and concluding that the interaction had been consensual. The ruling sparked widespread public protest and coordinated campaigns by civil society and women's rights organisations, who argued that the legal standard placed an unfair burden on the victim to demonstrate physical resistance.

In response to this public pressure, the legislature enacted the Criminal Law (Amendment) Act, 1983.⁸ The amendment introduced significant structural changes to the Indian Penal Code, the Code of Criminal Procedure, and the Indian Evidence Act. It created the specific category of custodial rape, increasing penalties for sexual assaults committed by police officers, public servants, and hospital staff. Crucially, it added Section 114A to the Indian Evidence Act, which established a legal presumption of the absence of consent in custodial rape trials where the victim stated under oath that she did not consent.⁹ The 1983 amendments also introduced Section 228A to the Indian Penal Code, making disclosure of a sexual assault victim's identity a punishable offence, and mandated that trial proceedings for such offences be conducted in camera to protect privacy.¹⁰

Further modifications followed over the next two decades. In 2002, an amendment to the Indian Evidence Act prohibited the cross-examination of a victim regarding her past sexual history in order to challenge her credibility or moral character.¹¹ This change sought to prevent defence strategies that used social stigma to undermine the victim's testimony. The next major turning point came after the December 2012 Delhi gang-rape case, which led the central government to appoint the Justice Verma Committee to review the country's sexual assault laws.¹² In its

⁶ Indian Penal Code, No. 45 of 1860, § 375 (India).

⁷ *Tuka Ram & Anr. v. State of Maharashtra*, (1979) 2 SCC 143 (India).

⁸ Criminal Law (Amendment) Act, No. 43 of 1983, India Code (1983).

⁹ Indian Evidence Act, No. 1 of 1872, § 114A (India).

¹⁰ Indian Penal Code, No. 45 of 1860, § 228A (India).

¹¹ Indian Evidence Act, No. 1 of 1872, § 155(4) (repealed by Act No. 6 of 2002) (India).

¹² JUSTICE J.S. VERMA, JUSTICE LEILA SETH & GOPAL SUBRAMANIAM, *Report of the Committee on Amendments to Criminal Law* (Jan. 23, 2013).

extensive report, the Committee recommended expanding the definition of rape beyond penile-vaginal penetration to include oral and anal penetration, as well as the insertion of objects. Notably, it also recommended that the definition of sexual offences be made gender-neutral, recognising that men and non-binary individuals can also experience sexual assault.¹³

When the legislature enacted the Criminal Law (Amendment) Act, 2013, it adopted the Committee's expanded definitions of physical penetration under Section 375.¹⁴ It also introduced new distinct offences, including stalking (Section 354D), voyeurism (Section 354C), and sexual harassment (Section 354A). Parliament nevertheless chose to retain a gender-asymmetric model for adult victims:

A man is said to commit rape who penetrates the vagina, mouth, urethra, or anus of a woman.

While the law expanded the scope of what constitutes a criminal act, it retained the requirement that the perpetrator be male and the victim female. This gender-specific framing was carried forward into India's recent penal overhaul, the Bharatiya Nyaya Sanhita, 2023, in which Section 63 preserves the gendered structure of adult sexual offences.¹⁵ Section 74 of the Bharatiya Nyaya Sanhita also focuses specifically on protecting the modesty of women, leaving no parallel statutory provision tailored to protecting adult men or non-binary persons from equivalent forms of non-penetrative assault.

III. THE AUSTRALIAN LEGAL FRAMEWORK ON SEXUAL OFFENCES: A COMPARATIVE PARADIGM

Australia provides an informative comparative model for gender-neutral legislative reform. As a federal nation, Australia distributes criminal law jurisdiction across its state and territorial legislatures. Over the past several decades, these jurisdictions have systematically updated their penal codes to replace the traditional, gender-specific definition of common-law rape with gender-neutral statutory terms such as "sexual assault," "sexual penetration," or "sexual offences."¹⁶

In New South Wales, the Crimes Act 1900 addresses sexual offences under a framework that avoids gender-specific restrictions on victims or perpetrators.¹⁷ Section 61I defines sexual assault in broad, neutral terms:

¹³ LAW COMMISSION OF INDIA, *172nd Report on Review of Rape Laws* (Mar. 2000).

¹⁴ Criminal Law (Amendment) Act, No. 13 of 2013, India Code (2013).

¹⁵ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 63 (India).

¹⁶ Criminal Law (Sexual Offences) Act 1978 (Qld) (Austl.).

¹⁷ Crimes Act 1900 (NSW) s 61I (Austl.).

Any person who has sexual intercourse with another person without the consent of the other person and who knows that the other person does not consent to the sexual intercourse is liable to imprisonment for 14 years.

By using the term "person" rather than specifying gender, the statute applies equally regardless of the sex or gender identity of either the complainant or the accused.¹⁸ Section 61H further defines "sexual intercourse" broadly to encompass penile penetration of the vagina or anus, oral stimulation, or the introduction of any object or body part into the genitalia or anus of another person, making the definition entirely gender-neutral.

Similarly, the state of Victoria updated its Crimes Act 1958 to establish a gender-neutral framework. Section 38 defines rape as the intentional sexual penetration of another person without that person's consent, while Section 40 addresses sexual assault involving intentional sexual touching without consent.¹⁹ The law defines these acts by reference to the nature of the conduct and the absence of mutual consent, rather than to the gender of the individuals involved. This approach ensures that the law applies uniformly to male-on-female, female-on-male, male-on-male, and female-on-female offences, as well as to assaults involving non-binary individuals.²⁰

Tasmania presents a further distinct statutory approach within the Australian federal system. The Criminal Code Act 1924 (Tasmania) was amended to redefine sexual penetration in a gender-neutral manner.²¹ Under Section 185, the offence of sexual assault covers any form of non-consensual penetration of an intimate body part, regardless of the victim's or perpetrator's gender. This model frames sexual violence primarily as a violation of bodily integrity and personal autonomy.

Jurisdiction	Statutory Instrument	Primary Legal Term	Gender Status
India	Bharatiya Nyaya Sanhita, 2023	Rape (Section 63)	Gender-asymmetric (male to female)
New South Wales	Crimes Act 1900	Sexual assault (Section 61I)	Gender-neutral
Victoria	Crimes Act 1958	Rape (Section 38)	Gender-neutral
Tasmania	Criminal Code Act 1924	Sexual assault (Section 185)	Gender-neutral

Table 1: Comparative overview of statutory terminology and gender status for sexual offences across selected jurisdictions

¹⁸ Crimes Act 1900 (NSW) s 61H (Austl.).

¹⁹ Crimes Act 1958 (Vic) ss 38, 40 (Austl.).

²⁰ See Crimes Act 1958 (Vic) s 38 (Austl.).

²¹ See Criminal Code Act 1924 (Tas) s 185 (Austl.) (reflecting structural modernisation of the definition of non-consensual sexual penetration).

This comparative baseline highlights the structural difference between the two systems. Australia's state laws generally assess criminal liability by reference to two factors: the nature of the physical act and the presence or absence of consent. The identity or gender of the victim does not change how the crime is defined under the statute. This approach avoids reliance on historical assumptions about gender roles, ensuring that all individuals have access to the same statutory protections under criminal law.

IV. CRITICAL ANALYSIS OF THE CURRENT INDIAN POSITION AND EXISTING STATUTORY GAPS

The insistence on gender-asymmetric terminology within the adult sexual offence provisions of the Bharatiya Nyaya Sanhita, 2023 (and, previously, the Indian Penal Code) leaves notable gaps in India's criminal justice system. While Indian law protects female victims, it does not provide equivalent statutory protection for adult male or transgender victims of sexual assault.²²

Historically, non-consensual sexual acts against adult men were prosecuted under Section 377 of the Indian Penal Code, which criminalised "unnatural offences," defined as carnal intercourse against the order of nature.²³ Section 377 was not designed as a victim-centric sexual assault statute, however; it was a colonial-era moral provision that criminalised the act itself, regardless of consent.

The legal context changed significantly with the Supreme Court's decision in *Navtej Singh Johar v. Union of India*, which decriminalised consensual sexual acts between adults under Section 377.²⁴ The Court retained the section only in so far as it applied to non-consensual sexual acts against adults. When the Bharatiya Nyaya Sanhita replaced the Indian Penal Code in 2023, however, Section 377 was omitted entirely from the new penal framework.²⁵

This omission creates a significant statutory gap. At present, where an adult male is subjected to non-consensual sexual penetration, there is no specific provision in the Bharatiya Nyaya Sanhita equivalent to the offence of rape. Such acts must instead be prosecuted under general provisions such as criminal force, wrongful confinement, or grievous hurt. These alternative charges carry significantly lower penalties and do not acknowledge the distinct psychological and physical trauma associated with sexual violence.

²² See CRIMINAL LAW AMENDMENT COALITION, *Memorandum on the Retention of Asymmetry in the Bharatiya Nyaya Sanhita* (2023).

²³ Indian Penal Code, No. 45 of 1860, § 377 (India).

²⁴ *Navtej Singh Johar & Ors. v. Union of India*, (2018) 10 SCC 1 (India).

²⁵ See MINISTRY OF HOME AFFAIRS, *Press Note on Implementation of the Bharatiya Nyaya Sanhita, 2023* (Gov't of India).

For minors, India's framework is different. The Protection of Children from Sexual Offences Act, 2012, is entirely gender-neutral.²⁶ Under that Act, a child is defined as any person under the age of eighteen, and the law protects both boys and girls from sexual assault, harassment, and exploitation. This protection ends, however, when an individual turns eighteen. A 17-year-old male victim is protected by the gender-neutral provisions of the Act, but if the same individual experiences a similar assault at the age of nineteen, he falls outside the scope of the adult rape provisions under Section 63 of the Bharatiya Nyaya Sanhita. This produces a statutory inconsistency in which legal protection against sexual assault changes solely by reason of reaching adulthood.

This gender-specific framing also creates difficulties for the transgender and non-binary communities. Although the Supreme Court recognised transgender individuals as a distinct gender category in *National Legal Services Authority v. Union of India*, the adult criminal laws governing sexual offences have not fully integrated that recognition.²⁷

While the Transgender Persons (Protection of Rights) Act, 2019, criminalises the abuse and sexual exploitation of transgender individuals under Section 18, it classifies these offences with a maximum penalty of two years' imprisonment.²⁸ By contrast, convictions for sexual offences against cisgender women under the Bharatiya Nyaya Sanhita carry significantly higher minimum penalties. This difference creates an uneven legal landscape in which the level of statutory protection and punishment varies according to gender identity.

V. VICTIMS OF SEXUAL ABUSE OUTSIDE THE HETERONORMATIVE FEMALE CONSTRUCT

To assess the practical impact of these legal gaps, it is helpful to examine the experiences of victims who fall outside the traditional legal definition of a sexual assault survivor. Research and field reports indicate that sexual violence against men and transgender persons occurs regularly, but often remains hidden owing to social stigma, shame, and a lack of clear legal reporting options.

A. Adult male victims and institutional realities

Male-on-male sexual violence occurs in various settings, including within closed institutional environments such as prisons and correctional facilities.²⁹ Studies on institutional safety indicate

²⁶ Protection of Children from Sexual Offences Act, No. 32 of 2012, India Code (2012).

²⁷ *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438 (India).

²⁸ Transgender Persons (Protection of Rights) Act, No. 40 of 2019, § 18 (India).

²⁹ Nicole Johnston, *Male Rape Victims Left to Suffer in Silence*, ABC WORLD TODAY (Feb. 9, 2001).

that young or vulnerable male inmates are at heightened risk of non-consensual sexual acts by other prisoners. In India, such incidents often go unreported or are handled as internal disciplinary matters, owing to the absence of specific statutory provisions for adult male rape.³⁰

Societal expectations regarding masculinity often discourage male victims from coming forward. A common cultural assumption holds that adult men are physically capable of resisting any assault, or that men cannot be traumatised by sexual abuse in the same way as women.³¹

When male victims attempt to report such incidents to law enforcement, they frequently encounter scepticism or a lack of understanding from officials, since the standard reporting forms and legal provisions under Section 63 of the Bharatiya Nyaya Sanhita are not configured for male complainants. This absence of clear legal pathways often deters individuals from seeking medical or psychological support.

B. Transgender and gender non-conforming individuals

The transgender community in India faces distinct vulnerabilities. Many transgender individuals experience systemic social marginalisation, economic exclusion, and a lack of stable housing, which increases their exposure to street-level violence and harassment.³² Academic surveys and human rights reports document instances of sexual violence against transgender individuals by both private actors and law enforcement personnel.

The current legal framework creates a difficult situation for transgender victims seeking justice. If a transgender person attempts to file a complaint under Section 63 of the Bharatiya Nyaya Sanhita, the case may be complicated by legal questions regarding their statutory gender classification.³³ If they instead seek a remedy under Section 18 of the Transgender Persons (Protection of Rights) Act, 2019, the maximum penalty available is two years' imprisonment. This creates a marked disparity when compared with the minimum ten-year sentence mandated for similar assaults against cisgender women, meaning that identical physical acts attract different levels of punishment according to the victim's gender status.

VI. CONSTITUTIONAL AND INTERNATIONAL HUMAN RIGHTS INTERFACES

The debate over gender-neutral sexual offence laws in India engages key constitutional principles and international legal commitments. The current gender-asymmetric framing raises questions concerning the constitutional guarantees of equality and non-discrimination.

³⁰ Sarah Crome, *The Psychological Impact of Sexual Assault on Men*, 12 CLINICAL PSYCHOL. REV. 445 (2002).

³¹ HUMAN RIGHTS WATCH, *No Escape: Male Rape in U.S. Prisons* (2001).

³² PEOPLE'S UNION FOR CIVIL LIBERTIES (KARNATAKA), *Human Rights Violations Against the Transgender Community* (Sept. 2003).

³³ Transgender Persons (Protection of Rights) Act, No. 40 of 2019, § 18(d) (India).

A. The constitutional mandate: Articles 14, 15, and 21

The Constitution of India provides a robust framework for individual rights. Article 14 guarantees equality before the law and the equal protection of the laws to all persons within the territory of India.³⁴ While this permits the legislature to enact specific laws for different groups, any distinction must rest on a clear, intelligible difference that connects directly to a valid legislative objective.

Article 15(1) expressly prohibits the State from discriminating against any citizen on grounds only of religion, race, caste, sex, or place of birth.³⁵ While Article 15(3) permits the State to make special provision for women and children, legal scholars argue that this should be used to provide additional support to vulnerable groups, rather than to exclude other vulnerable individuals from the primary statutory protections against physical violence.

Article 21 further guarantees the right to life and personal liberty, which the Supreme Court has interpreted to include bodily autonomy, privacy, and human dignity.³⁶ In *K.S. Puttaswamy v. Union of India*, the Court affirmed that bodily privacy and integrity are core components of personal liberty.³⁷ By leaving adult men and transgender individuals without equivalent statutory protection against non-consensual sexual acts, the current criminal framework falls short of these constitutional standards of dignity and equal protection.

B. International obligations and human rights standards

As an active member of the international community, India is a signatory to several international human rights treaties. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights both provide that all individuals are entitled to equal protection of the law without discrimination on grounds of sex or gender.³⁸

All are equal before the law and are entitled without any discrimination to equal protection of the law.³⁹

The United Nations Human Rights Council has repeatedly observed that states bear a responsibility to protect all individuals from sexual violence and to provide accessible legal remedies for all victims.⁴⁰ Over time, international legal bodies have moved away from gender-

³⁴ India Const. art. 14.

³⁵ India Const. art. 15, cls. 1, 3.

³⁶ India Const. art. 21.

³⁷ *K.S. Puttaswamy & Ors. v. Union of India*, (2017) 10 SCC 1 (India).

³⁸ International Covenant on Civil and Political Rights, art. 26, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. No. 16 at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171.

³⁹ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III), art. 7 (Dec. 10, 1948).

⁴⁰ UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, *Discriminatory Laws and Practices and Acts of Violence Against Individuals Based on Their Sexual Orientation and Gender Identity*, U.N. Doc. A/HRC/19/41 (Nov. 17, 2011).

specific definitions of sexual violence, encouraging states to adopt neutral, conduct-based definitions in their national laws. By modernising its criminal codes to include all victims, India would align its domestic law more closely with these global human rights standards.

VII. DECONSTRUCTING THE ARGUMENTS AGAINST GENDER-NEUTRAL RAPE LAWS

Despite recommendations from the Law Commission of India and the Justice Verma Committee, legislative steps toward gender-neutral adult sexual offence laws have met with institutional hesitation.⁴¹ Examining the primary concerns raised against these reforms helps to clarify the ongoing legislative debate.

A. The "anti-woman" concern and misuse of procedural shields

A primary argument against gender-neutral laws is the concern that they might weaken protections for women.⁴² Some contend that, if sexual offence laws are made gender-neutral, accused men might file false counter-claims of sexual assault against female complainants as a defence strategy. This, it is argued, could complicate ongoing trials, prolong proceedings, and place additional emotional stress on female victims.⁴³

While these concerns deserve careful consideration, keeping vulnerable populations outside the protection of the criminal statutes is a counterproductive way to address procedural misuse. The risk of false claims affects many areas of criminal law, including property disputes, assault, and financial crime.⁴⁴ The legal system addresses such challenges through established evidentiary standards, thorough police investigation, and judicial oversight, rather than by denying entire groups access to statutory protection. Through clear definitions and strict evidentiary requirements, the law can protect male and transgender victims while maintaining robust protections for women.

B. Challenging stereotypes and recognising shared experiences

A further barrier to reform is the persistence of traditional social assumptions about gender. Patriarchal frameworks often assume that women are exclusively victims and men exclusively aggressors. This view can lead to a misunderstanding of the nature of sexual violence, which is

⁴¹ See Criminal Law (Amendment) Ordinance, 2013 (India).

⁴² CENTRE FOR CIVIL SOCIETY, *India's Law Should Recognise Men Can Be Raped Too*, Policy Briefing (2018).

⁴³ Madhu Mehra, *The Justice Verma Committee Report: A High-Water Mark for Women's Rights, But Gaps Remain*, 38 ALT. L.J. 112 (2013).

⁴⁴ See *State v. Sheodaya*, AIR 1956 MP 116 (India).

fundamentally an exercise of power, control, and coercion rather than an act driven merely by desire.⁴⁵

As the scholar Jocelynn Scutt observed of criminal jurisprudence:

The principle of criminal law is, surely, that all persons should be protected equally from harm of like degree. The case for treating crimes of like heinousness similarly appears to be stronger than that calling for a distinction to be made between penetration of the female body and penetration of the male body, whatever the sex of the actor.⁴⁶

Adopting gender-neutral language does not diminish the reality that women experience sexual violence at high rates; rather, it acknowledges that bodily autonomy is a universal right.⁴⁷ Framing criminal statutes around the act and the presence or absence of consent helps to ensure that the law applies fairly to all individuals, irrespective of gender.

VIII. CONCLUSION AND STRATEGIC RECOMMENDATIONS

The current structure of adult sexual offence laws in India, which relies on gender-asymmetric phrasing under Section 63 of the Bharatiya Nyaya Sanhita, 2023, leaves significant groups without equivalent legal protection. While the framework provides clear protection for women and protects minors under the Protection of Children from Sexual Offences Act, it lacks comparable statutory mechanisms for adult men, transgender persons, and non-binary individuals who experience sexual violence.⁴⁸

To address these gaps and provide equal protection to all individuals, India should consider the following legal reforms.

- *Statutory standardisation.* Revise Section 63 of the Bharatiya Nyaya Sanhita, 2023, to replace gender-specific references with gender-neutral terms such as "any person," following the models used in New South Wales and Victoria. This would shift the statutory focus to the nature of the act and the absence of consent, rather than the gender of the individuals involved.
- *Procedural and evidentiary alignment.* Update the corresponding provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023, to ensure that protective measures, such as in camera proceedings, privacy protections,

⁴⁵ Flavia Agnes, *Law, Justice, and Gender: Affirmative Action and Judicial Discourse in Domestic Violence and Rape Laws* (Oxford Univ. Press 2011).

⁴⁶ Jocelynn A. Scutt, *The Politics of Rape: The Alternative to Feminist Action*, 5 AUSTL. J.L. & SOC'Y 43 (1988).

⁴⁷ *Priya Patel v. State of Madhya Pradesh*, AIR 2006 SC 2639 (India).

⁴⁸ CENTRE FOR LAW AND POLICY RESEARCH, *Injustice Reform: Assessing Sexual Offences and Gender Identity in India* (2021).

and restrictions on cross-examination regarding past sexual history, apply equally to all victims.⁴⁹

- *Institutional framework development.* Expand national crime databases to record and report instances of sexual violence against men and transgender individuals.⁵⁰ Such data would help law enforcement agencies and policymakers to understand and address the safety needs of all marginalised groups.

By decoupling the statutory definitions of sexual violence from traditional gender classifications, India can modernise its penal framework to protect all citizens more effectively. This transition would support the constitutional guarantees of equality and dignity under Articles 14 and 21, and would help to create a more comprehensive, accessible, and balanced criminal justice system.

⁴⁹ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India); Bharatiya Sakshya Adhiniyam, No. 47 of 2023 (India).

⁵⁰ See UNITED NATIONS OFFICE ON DRUGS AND CRIME, *Handbook on Effective Police Responses to Violence Against Women* (Criminal Justice Handbook Series, 2010).