

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

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**Volume 5 | Issue 2**

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**2022**

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# A Study of Gender Just Laws (A Pilot Study in the UT Chandigarh)

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PRACHI GROVER<sup>1</sup>

## ABSTRACT

*Despite expanding the scope of definition of rape under the Indian Penal Code to include non- penile-vaginal acts of penetration, the said definition continues to be consider gender specific terms. The patriarchal society has always hindered the recognition of male rape cases by the society as well as the criminal justice system. Presently, where several progressive nations around the globe are approaching towards gender-neutral rape laws that recognize someone of either gender as a possible victim, survivor, or suspect, India sustains on the patriarchal belief that men are too strong and powerful to be victim.*

*While one assumption states that this toxic assumption can deprive a segment of society of justice, the right to life, and freedom. The other assumption argues that establishing gender neutral laws will take away the power of justice from the vulnerable section of the society i.e., women*

*This paper aims to study whether there is a need of establishing gender neutral laws keeping in mind the psychological train of thought experienced by the male victim that deduces them from reporting cases. Further, it also aims at examining the concept of establishing rape laws that are gender just rather than gender neutral.*

## I. BACKGROUND OF RAPE LAWS IN INDIA

This chapter shall lay down the rape law reforms in India, from the 1980s to the recent amendments. Before jumping into the gender neutral aspect of the research question, we need to fathom the current scenario to understand the social context, the society in general, the mindset of people and the repercussions of the changes in law.

The history of rape laws goes back to the late 90s. It has been deduced that Indian Women's Movement has revolved around the agenda of broadening the definition of rape since the 1980s.

1983: The Criminal Law (Second Amendment)

The Mathura Rape case<sup>2</sup> is a landmark judgement in the struggle of women's rights wherein the Supreme Court held that the young lady who had been raped by three policemen, had submitted

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<sup>2</sup>Tuka Ram And Anr vs State Of Maharashtra, 1979 AIR 185

and given her consent for sexual intercourse since no wounds of resistance found on her body. Post this infamous judgement, four law teachers wrote an open letter to the Chief Justice of India reprimanding the case<sup>3</sup>. It was demanded that the burden of proof be shifted on the accused, that the camera proceedings shall be held for rape trials and to keep the identity of the rape victim anonymous. Another demand was to ignore the sexual history of the victim in deciding if the accused is guilty or not. This judgement led to significant changes in the rape laws.

### **2002: Amendment to Indian Evidence Act**

The rape victims deferred from filing of rape cases due to Sec 155(4) of Indian Evidence act which demanded the cross questioning of the prosecutrix about her past sexual acts to establish a defense. This led to the amendment of the rape laws and now cross questioning is prohibited.

### **2012: Protection of Children from Sexual Offences (POSCO) Act**

The increased statistics in 2012 in number of child rape cases led to creation of POSCO Act 2012 (Protection of children from sexual offences).

Post this, only Indian Penal Code criminalized sexual intercourse with a girl below the age of 16 years without her consent.

### **2013: Criminal Law (Amendment) Act**

Delhi gang rape case led to significant amendments in rape laws in India. The definition of rape now includes not only penile- vaginal penetration but oral, anal, and insertion of any object into the vagina, urethra or anus of a woman under Section 375 IPC. The punishment for rape was also enhanced for aggravated and non-aggravated situations.

This led to the 2013 Criminal Law Amendment. Under this change, new offences such as stalking, acid attacks, and voyeurism were added into the definition of rape. Even the threat of rape is now a crime. The minimum sentence was changed from seven years to 10 years. In cases that led to the death of the victim or the victim being in a vegetative state, the minimum sentence was increased to 20 years. This was the first time the vegetative state was included since the landmark Aruna Shanbaug case.

### **2018: Criminal Law (Amendment) Ordinance**

In 2018 an 8-year-old girl named Asifa Bano was raped in Kathua, Jammu & Kashmir, 7 people were involved in this heinous crime four of whom were policeman others involved were a priest

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<sup>3</sup>Baxi, U., Dhagamvar, V., Kelkar, R., & Sarkar, L. (1979) An Open Letter to the Chief Justice of India. ^

his nephew and his son. This crime took place in a temple, and for obvious reasons outraged people everywhere in India. After 3 months of the incident, a change was brought to POSCO since it had been against a child. It made rape of a child below age 16 punishable with a minimum of 20 years' imprisonment and provided for the execution of the offender for raping anyone below the age of 12.

## II. MEANING OF GENDER NEUTRALITY

Gender neutrality, a phrase that perhaps disguises more than it communicates. Under gender neutral laws, all genders are equal in the eyes of law, either by making the language of law gender neutral or explicitly stating it. The fundamental characteristic of gender-neutral reforms is that they expand the definition of rape to recognize male victims and female perpetrators. Hence, they are "neutral," but only in the sense of including both males and females as potential rapists and victims. Gender neutrality, is a movement that seeks to avoid negative discrimination on the basis of gender, with regard to policies, language etc. It doesn't seek to deny the differences between men and women but rather about understanding these differences and the implications these differences have on the lives of both genders<sup>4</sup>. Gender neutral laws, therefore, are those which seek to grant equal sanction and opportunity to both genders, without negative discrimination.

### **Gender neutrality with respect to the victim**

**Women as a Victim:** Traditionally, the word "victim" associates itself only with women. It is unfortunate to note that till date the Indian rape laws victimizes women. The society which places men at the head of the family is the one which prevents the recognition of men as victims of sexual offences. The basic assumption behind this is that a man is too strong to be submissive and that victims of sexual offenses are weak. This notion prevents a male victim from reporting the crime, due to the fear of society and the loss of his own manhood. However, there is a growing awareness that sexual assault is not only an act of lust and desire, but also a means of showing the dominance or superiority of a caste, class, religion, community and are acts of power and humiliation. If so, there is no reason why the male sex should be excluded from being the victims of rape in India.

A Public Interest Litigation was filed by the Criminal Justice Society of India, a non-governmental organization in 2018, which claimed that "section 375 of the Indian Penal Code (which deals with the rape of a woman by a man) was discriminatory and violated the right to

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<sup>4</sup>Dr. SailajaVaskarla, *Gender-Neutral Policies and Practices at Workplace: An Indian Industry Perspective*, 4(12) IJHRRR 29, 29–30 (2016).

equality, or article 14 and Article 15 which prohibits discrimination based on religion, race, caste and sex of the Indian Constitution."<sup>5</sup> The purpose of public interest litigation was to raise a voice against injustice towards men. A transgender can be a victim of rape and a man is also in need of protection under the law. The Supreme Court refused to consider the PIL as it was a parliamentary issue. It is strongly opposed to the PIL and ruled that sections 375 and 376 should remain intact since in India most rape victims are women and the perpetrators are mostly men. In its statement, the central government made it clear that these laws were made with the patriarchal nature of Indian society in mind and that making these laws gender neutral would do more harm than good.

**Male as a Victim:** Since the 1980s, there has been an increasing body of researches in the area of unwanted sexual experiences by men. One such research indicates that women employ similar sexual coercion tactics such as seducing reluctant partners, physical strength, intoxicating substance use, and even emotional manipulation. The study concluded, adding to the growing body of evidence, that women are no different from men in terms of the range of tactics employed to engage in coercive sexual activity.<sup>6</sup> The study also indicated that prior sexual abuse played a role in motivating both men and women to coercive sex. However, one place where differentiation occurs is in the motivations to employ coercive tactics. The women who indulged in these were primarily motivated by feelings of compulsion and only secondarily motivated by the desire for sexual domination. The reason for the male need for power, domination and control can be explained by the concept of "hegemonic masculinity" defined by Raewyn Connell which conditions men to behave and feel in a typical way.

The whole definition of rape only considers rape of women and there is no provision for rape of a man. It seems that in India there is no specific law as to whether a man rapes another man or a woman rapes a man. At most, you can sodomize under IPC 377 which is modeled on the Buggery Act, 1533 in which unnatural sex is an "act against God". With the exception of this section, all other laws and sections are intended for women only. This inequality in the treatment of male rape versus female rape affects the equalitarianism of our constitution. Although POCSO ("Protection of Children from Sexual Offences") exists for the sexual assault of a male child, such a provision does not exist for an adult male. One might question the reason behind the difference between varied treatment for an act of similar nature by an adult and male child. If we have made provision for the rape of a male child, why can't we have similar arrangements

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<sup>5</sup> Press Trust of India. 2018. *SC declines to entertain PIL to make rape gender-neutral offence*. November 12.

<sup>6</sup>Elizabeth Murphy, Danielle A. Harris, Raymond Knight and Michael A. Milburn, 'Sexual Coercion in Men and Women: Similar Behaviors, Different Predictors' (2009) 38 Archives of Sexual Behaviour 974.

for men as well? The basic idea behind this is that the men in India are seen as invulnerable and who use their power to exploit women. However, when we consider the basic reality reflected in the Insia Dariwala survey<sup>7</sup> which interviewed 1,500 men of which 71% of the men questioned said they had been abused, 84.9% said they had not told anyone. abuse and the reasons for it were shame (55.6%), followed by confusion (50.9%), fear (43.5%) and guilt (28.7%). Another concept which can be highlighted in when male rape is talked about is concerned with issues of arousal and consent. As a presumption is usually noted that male sexual availability can be determined overcome in situations where the male victim admits to having maintained an erection during his sexual assault.<sup>8</sup> This brings the victim to a level of confusion wherein the doubts of consent creeps in due to maintained erection which further limits the access of the victim to resources and legal aid. Upon looking at the situation medically, an erectile response cannot be interpreted as sexual pleasure and in legal terms-consent biologically. When a man is sexually assaulted, “an erection and any subsequent ejaculation is a physical response rooted in biology, not in implied consent.” In fact, it should be noted that a sexual response of a male body can occur under various circumstances which stand nowhere near the sexual arousal. This can be majorly including the emotional component “consisting extreme anxiety, terror, and anger.”

**Transgender Community: "Transgender"** is a term which includes " people who do not conform to traditional notions of gender identity, appearance and expression"<sup>9</sup>. It includes hijras, kothis, and trans-sexual. While some undergo surgical operations to transform into the opposite sex, others perform the role of the opposite sex. This diverse range of identities makes them vulnerable to sexual violence, according to a survey of nearly 5,000 transgender people by the National AIDS Control Organization in 2014-15, one fifth said they had experienced sexual violence in the past 12 months. But activists like Dias say India's rape laws make it almost impossible for transgender people to get justice, because they define perpetrators as men and victims as women.

Crimes against transgender people are punishable under the Transgender Persons (Protection of Rights) Act 2019. However, men convicted of raping a woman are sentenced to a minimum prison term of 10 years, which can be extended to life imprisonment. The death penalty can also be pronounced in cases where the woman is left in a vegetative state, for

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<sup>7</sup>Rituparna Chatterjee, “*The mindset is that boys are not raped*”: India ends silence on male sex abuse, The Guardian,

<sup>8</sup>Michael scarce, *Male on male rape: the hidden toll of stigma and shame* 60-61 (Insight Books 1997). “Others, including medical personnel, family, friends, and other support people, may be reluctant to believe a man who admits rape when he shares that he had an erection or ejaculated.”

<sup>9</sup>Appaji, PR. *The Hijra and Kothi Movement; a struggle for respect*. Centre for Public Policy Research Initiative

repeat offenders, or the rape of a girl under 12 years old. But the punishment for the physical and sexual abuse of the transgender community is a minimum of six months and a maximum of two years in prison with a fine. Activists claim that lighter sentences make transgender people more vulnerable to attack, sending a message to society that their lives are not worth protecting.

### **Gender neutrality with respect to the Perpetrator**

**Female on male rape:** In straight medical terms, a female raping a man stands impossible on varied levels. "To presume that women can rape men is rather outrageous," said Agnes. "While women can sexually harass them, they can't sexually assault them. There have been no such cases anywhere." In fact, rape is a "deeply gendered construction", with several social implications for women such as stigma. Susan Brownmiller says " I think it is a biological impossibility."<sup>10</sup> Till date there are no cases of women raping a man, therefore to make a blanket law which is gender neutral without any strong empirical evidence is not just.

*"There are no known instances in India where women committed sexual assault upon men and the proposal to make sexual assault gender neutral in non-custodial situations is not based on any empirical evidence"*

Above that, both men and women who are inflicted to sexual assault are treated differently in our patriarchal society. The repercussions and the humiliation that a woman faces in the name of two finger test is outrageous. A man doesn't face the psychological trauma of being a social stigma and is not stared by the so called progressive society.

Female on Female: In *State Govt. v. Sheo dayal (1956)*, Madhya Pradesh (M.P.) High court opined that modesty of a woman can be violated by the same gender i.e., a women under the purview of Section 354 of IPC<sup>11</sup> The question whether a woman can commit gang rape was dealt by the Supreme Court in the case of *Priya Patel v. State of M.P*<sup>12</sup> While the nationwide wave of joy spread when Supreme court decriminalized same sex relations on September 2018. A year later, the same sex female on female rape case came to light when a 19-year-old women raped another woman with help of two male counterparts. The woman was charged under Section 377 of the Indian Penal Code and provisions of the Prevention of Immoral Trafficking Act. Time and again many activists and LGBTQ community has come forward to question the

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<sup>10</sup> Moore, S. (1975). Rape is a crime not of power but of lust, argues Susan Brownmiller. People

<sup>11</sup> Annavarapu, S. (2013). *Heteronormativity and Rape: Mapping the construction of gender and sexuality in the rape legislations in India. International Journal of Criminal Justice Sciences (IJCJS) ā Official Journal of the South Asian Society of Criminology and Victimology (SASCV)*, ISSN: 0973-5089, 8 (2), 248ā 264.

<sup>12</sup> Priya Patel v. State of Madhya Pradesh, (2006) 6 SCC 263.

non-mention of non-consensual rape which is dispensed on a lady by a lady. While the Section 375 of the IPC, 1860, covers cases of assault of lady by a man, it fails to consider female on female brutality. To question the same, the request documented by non-administrative association (NGO) Criminal Equity Society of India looked for that the meaning of assault under Area 375 be held 'ultra vires' for being 'biased and violative of Articles 14 (appropriate to balance), 15 (denial of segregation on grounds of religion, race, station, sex.) and 21 (ideal to life and individual freedom) of the Constitution'.

The justice system arises out on the belief that the act of rape takes place on between different sex and does not fall in the array of possibilities for same-sex especially women, due to the aspect of penetration. Many reports have come out wherein the case although has not been reported, the female victim has reported issues including forced sexual touching, oral sex, or penetration through other objects. Such incidents bring to light that same-sex rape of a women can lead to traumatic outcomes in a similar fashion as male on female rape cases.

While the issue of whether a female can rape a male has been widely discussed and debated in the public domain, scholars and activists in India have largely remained silent on this facet of gender neutrality.

### **III. WHY GENDER JUST AND NOT GENDER NEUTRAL LAWS?**

#### **Negative Consequences on Female Victims**

Consequences of any change are inevitable. The question that hangs in the middle is the ability to balance positives over the negative. A gender neutral rape would lead to a greater unjust to the already marginalized section of the society, Women. This will not only lead to increased humiliation but also open up opportunities for inflicting trauma and counter cases against women, in turn negating the reform. Feminists have argued that in countries like India, female virginity is the most precious asset she possesses. The introduction of these laws will ostracize the already traumatized section and fail the very objective of introducing reforms.

*The existing rape laws were made keeping in perspective the knee deep situation wherein protection and justice is aimed to be brought to women, the gender that could not protect itself from the prey of patriarchy. A gender neutral law will not only neutralize the ability of women to get justice without the fear of counter repercussions including, false counter cases, fear of being exploited by the ones in power and resources and inevitably result in the gender being abused and threatened, but such laws will also put a question on the issue of women protection, i.e., the base purpose of existing laws.*



The patriarchal form of government coupled with gender neutral laws will bring nothing but banners of accusation and shame on female victims. Female victims would be pressured to withdraw their cases as the offender would be able to file a counter complaint easily.<sup>13</sup> Bringing about a gender neutral law will discourage the female victims to come out and file a complaint because of the fear of counter filing by those who have control, power and resources at their disposal. The long fought battle for women's right which progressed over the years shall all be in vain if gender neutrality of laws is implemented. The main obstacle to make these laws gender neutral is their misuse. Such laws can provide an easy way out for the culprits and they will be left unscratched due to the inherent inequality that exists. It will become easy for them to blame the woman and the patriarchal society will accept it. The existing legal system does not guarantee full security and justice for a female victim, as it is mainly difficult to reach the court to seek justice. "There is an increase in the number of cases where the same male family members rape girl child and females in their own families."<sup>14</sup> Therefore, filling these gaps in existing laws such as rape laws should be a priority rather than making them gender neutral. If lawmakers plan to make the rape laws gender neutral, it is eventually incumbent on judges, courts and the police to act honestly and integrity, without any bias, and to ensure that the real victim gets justice. In India, even today, a woman is afraid to raise her voice because of the threat that if she does, she will be raped or harassed and gender neutral laws will add fire to the already abused section.

### **Dominance theory**

Power can be seen in two varied forms, one quite understandably meaning physical strength while other is the power one holds in the society as a whole. Based on this theory, men in the society are known to hold dominance and a certain power, leading to an inevitable difference between the two genders. It is because of this power that they are given various privileges. Dominance theory that emphasizes on the power difference between the sexes argues that the inequalities that women experience as gender discrimination in economic, political and family arenas stem from models of male domination. This theory asserts that men are privileged and women are subordinate and this privilege receives the support of most social institutions and a complex system of cultural beliefs. The law is complicit with other social institutions in the construction of women as sexual objects and inferior and dependent beings. Male domination and the support of social institutions can be seen through examples. A man is never questioned if he is a virgin or not before fixing his marriage. They are free to do whatever they want without

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<sup>13</sup>Perappadan, B. S. (2013). *Wanted: Gender Just Rape Laws, The Hindu*

<sup>14</sup>India Today. 2020. Rapes in India: 94% offenders known to victim, every 4th victim a minor. January 10.

social pressure. No one prevents a man from going out at night. They can take on jobs that require physical strength without being challenged. Society and social institutions perceive women as objects for sexual gratification. "Theorists in the field cite the lack of legal controls over pornography and sexual harassment, the excessive restriction of abortion, and inadequate responses to violence against women as examples of how the laws contribute to oppression of women.

### **Patriarchy**

Another argument put forward by those who do not support gender neutrality for women is that the status of women in India has deteriorated over the years and the situation would only get worse if a law on gender neutrality came into effect. Indication of male based domination is not a far cry in our country. The patriarchy that exists in Indian society is the rule that men (father, husband and brother) are superior within a family which gives rise to the repression of women, domestic violence, the dowry system and other harassment faced by women. It expresses the idea that when subordination and injustice against women is perpetuated within her family, how can she break free from social subordination and injustice from legal institutions. A woman's virginity is an important asset. Their morality hangs in question when the concept of premarital sex is taken into perspective. In fact, even the judges of our country do not refrain from making such observations about the character of the victim. The two-finger test is a deeply invasive and humiliating procedure for rape victims. It is used to check the sexual history of the victim and is always carried out by doctors on rape victims. A study found that less severe sentences were imposed on offenders in cases where the medical report indicated that the woman had been sexually active before the marriage, even though law prohibits taking into account sexual history. Unless and until we get rid of these patriarchal stereotypes and educate judges, police, society, the law must not be made gender neutral because men and women are not in the same position. As Fran Olsen puts it, it is useless "to pretend that men and women are similarly situated."<sup>15</sup>

## **IV. RESEARCH FINDINGS IN THE UT OF CHANDIGARH**

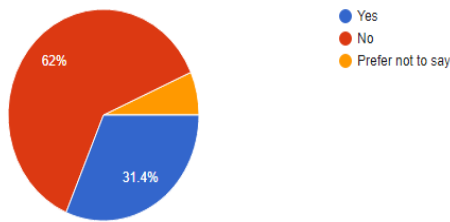
From a sample size of 121 respondents comprising of 52.9% of females and 47.1% of males it was observed that around 31.4% of the total respondents encountered a situation wherein a female has inflicted sexual offence (including touching without consent, revenge pornography) on a man above 18 years of age. Although less than half of the population has

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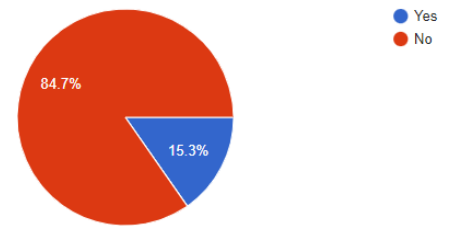
<sup>15</sup> 8 Olsen, F. (1984). *Statutory Rape: A Feminist Critique of Rights Analysis*, 63 TEX. L. REV.387, 412.

undergone this situation only 15.3% have been reported to the police.

Have you ever encountered any situation wherein a female has inflicted sexual offences on men (above 18)?  
121 responses

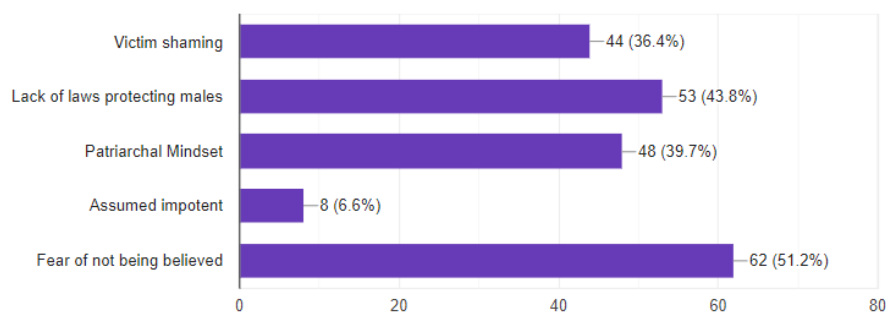


If yes, has the case ever been reported?  
72 responses



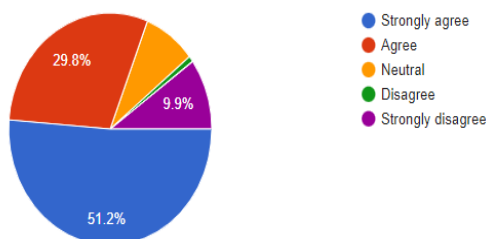
While identifying the reasons behind the unreporting of remaining 84.7% cases and to capture general opinion of the population on the unreported male sexual victimization it was noted that over 51.2% population voted the "fear of not being believed" as a major cause followed by "lack of laws protecting males (43.8%)". Patriarchal mindset and victim shaming stood next in line as reasons of unreported male sexual offences i.e. 39.7% and 36.4% respectively.

Why do majority of male sexual assault cases go unreported?  
121 responses

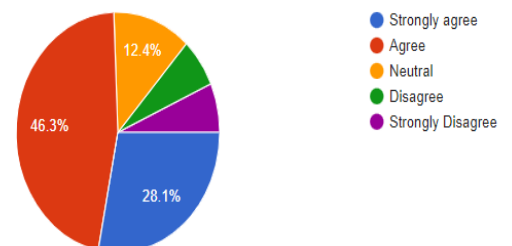


Over 80% of population believed that males and transgenders can be sexually abused. Further, more than 75% of the respondents noted that men can be subjected to rape by women while agreeing to the fact that rape laws in India favors only women (71.9%).

Males and transgenders can be sexually abused.  
121 responses

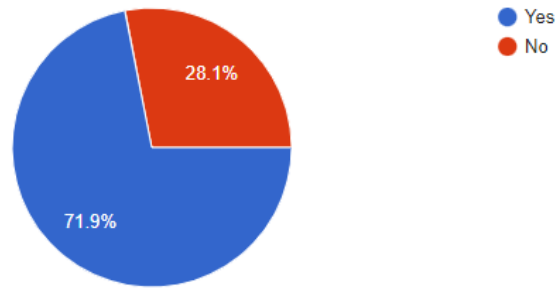


Men can be the subjected to rape by women.  
121 responses



Rape laws in India favours only women.

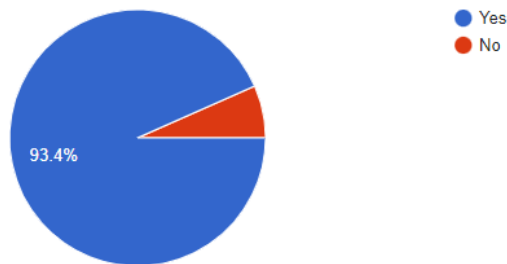
121 responses



To understand the stance of respondents on the definition of rape, it was analyzed that the majority of population i.e. 93.4% believed that forced men on men intercourse should be recognized as rape.

Should forced men on men intercourse be recognised as rape?

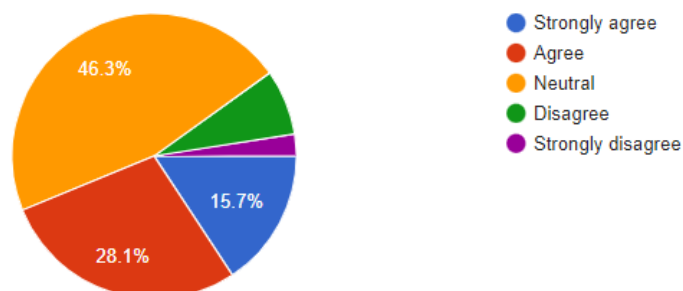
121 responses



Although 46.3% of the population presented a neutral stance probably because of lack of information and understanding, almost 28.1% of the respondents observed that men in power will be more likely to report a false rape case against women if rape laws recognize women as rapists.

Men in power will report false rape cases against a women if rape laws recognise women as rapists.

121 responses



## V. CONCLUSION

To summarize, the researcher has tried to examine the need for a gender just rape law in India which is gender specific for the perpetrator and gender neutral for the victims. The paper begins with an overview of the research paper along with the questions the researcher tries to answer, the research method adopted and the hypothesis. Further the paper traces the various rape law reforms in India over the time. The different dimensions of gender neutrality are highlighted.

The first aspect, i.e., gender neutrality towards the victim, highlights the extent and prevalence of male and transgender sexual violence in India. It can be concluded that the existence of male and transgender rapes in India, especially male-on-male rapes, cannot be denied. There is an urgent need of addressing sexual violence against males and the transgender community. A gender just law which recognizes all genders as victim will uphold even male and transgender community to the victim position and in turn protect them from cases of sexual crimes. This tests the first hypothesis of this research paper correct- " Gender just laws will address and protect males and transgender community from offense that are sexual in nature."

The most important point of view against total gender neutrality is the patriarchal mentality of Indian society and the negative consequences this could have on female victims. While sexual violence against men and transgender people must be dealt with, it must not create a detrimental environment for women who have been raped. We must strive to make a society that is equal for all. Bringing in complete gender neutrality will make us lose the long fought battle for women's rights and empowerment. The current scenario of women in India depicts how it would not be wise to make the rape laws gender neutral. A step-by-step approach needs to be adopted. This verifies the second hypothesis of the paper- " Gender neutrality of rape laws will have a negative impact on the female section of the society".

As a foremost step, there is an immediate need to implement the Justice Verma Committee<sup>16</sup> recommendation that the rape law must be amended to make the victim gender inclusive while the perpetrator remains gender specific. It cannot be denied that in the current society that is dictated by patriarchy, the misuse of law by use against women is highly prevalent. The researcher examined that if that blanket of gender neutrality was implemented how the dominant section of the society will engulf the hard earned rights of the most vulnerable and marginalized section of the society by filing counter cases as a defense leaving the women who will not raise a voice against the same.

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<sup>16</sup> Report of the Committee on Amendments to Criminal Law (2013)

## VI. RECOMMENDATIONS

1. Striking a balance between the rights and obligations of men, women, as well as transgenders, so as to eliminate any conflicting interests or possible exploitation of any legal privilege, should be kept at the forefront of thought process while amending rape laws in the country.

2. Recognizing the existence of male on male as well as transgender rapes in India and amending the primordial Section 375 of the Indian Penal Code, 1860 in a gender-neutral tone should be a priority. This would ensure addressing the loopholes in existing rape laws instead of making them gender neutral all together.

3. The three member Verma Committee<sup>17</sup> recommendation that the victim be made gender inclusive, therefore, sexual assault on men, as well as homosexuals, transgendered and transsexual persons be covered by the rape law should be implemented.

4. The transgender can file against sexual harassment under section 354 of the Indian Penal Code, as stated by the Supreme Court in *Anamika v. Union of India and Ors*<sup>18</sup>, where the applicant was a student at the University of Delhi and requested the anonymity of his identity. The Domestic Violence Act 2005 makes the nature of the case a civil complaint in which women seek redress in terms of money, housing and other benefits rather than the traditional way of suing under the law. IPC Article 498A. Such laws are introduced for the welfare and comfort of women and do not discriminate against men. In my opinion, if separate laws for the same men and transgender people are to be introduced, lawmakers and courts should ensure that there is no abuse of the law by men and the decision should only be taken after proper investigation of the matter without bias. or prejudices.

5. There is an immediate need to engage in a discourse in which experiences of male sexual violence must be taken into account when drafting the law. In simpler terms, Gendered definitions and interpretations of rape laws should not be put forward for base reasons including, first, is incompatible with the LGBT rights campaign, and second, its foundations are based on common Victorian case law. law which attaches undue importance to harm to establish rape. Therefore, lawmakers should direct the Legal Commission to conduct research and assessments of all types of victims of gender-independent sexual violence.

6. Law is nothing but the collective will of society that binds the functioning of the society. There is an urgent need to gender sensitize the entire justice machinery and update legal tools

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<sup>17</sup> Report of the Committee on Amendments to Criminal Law (2013)

<sup>18</sup> W.P. CRL 2537 2018

for investigative agencies. If a society has to be inclusive in spirit, there is a need to inculcate diversity and inclusiveness not only in thought but also in action. Making laws and preparing police officers is the most extreme a legislature can do; the genuine change will come just when the collective will of the individuals mirror the same.

7. Last but not the least, we must strive towards “Gender Just, Gender Sensitive, NOT Gender Neutral Rape Laws”.

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