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# Gender Equality and Sexual Offences Against Men in India

Authored By-Dexin Joyan<sup>1</sup>

## Abstract

In this paper, Sexual offense against men is a silent issue in India. Everyone knows this but no one wants to discuss it, refuses to accept it. There are no laws about the male hunting and most Indian laws and associated with women. They think the community is a patriarchal society for women. Does not seem to dominate humans. In this paper, researchers try to find the causes behind the problem in society. The researcher tries to know about sensitive problems. The researcher has chosen a doctrinal study to know the problems of society related to gender equality and abuse of law associated with sexual crimes.

**Keywords:** Sexual Offences, Rape against men, rape, law, Gender equality

## Introduction

**“True equality means holding everyone accountable in the same way, regardless of race, gender, faith, ethnicity or political ideology” - Monica Crowley<sup>2</sup>**

Gender equality is the belief that the sexual differences have absolutely no significance either socially or politically. But equality among the persons is merely reduced just to words because there is a failure in the actual implementation of the law against sexual abuse especially in case of sexual minorities. There exists an assumption that only women get abused and that men are not abused and hence accused of the crimes. This scenario of male domination and crimes against women that once existed has now changed over the years, resulting in a paradigm shift in the attitude of people towards women. But there is an increasing crime rate against people irrespective of gender. While the reality focuses on the increasing rate of crimes against women such as assaults, rape, domestic violence, sexual harassment etc. there is another blatant truth and reality that is often overshadowed by these pro women legislations and crimes, and that is the crimes against men. A law that consciously allows the society to think that a certain crime or set of crimes can only take place against a particular gender and that these crimes are committed only by a particular gender. It is in the light of these fundamental aspects of law and the consequences or results of such a law being in force we look at law from the perspective of gender neutrality.

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<sup>2</sup> Famous American journalist Monica Crowley, a political commentator and lobbyist who is also a contributor for Fox News about equality.

## Sexual Offences:

The terms “sexual offences” and “sexual offender” have not been specifically defined under any existing penal laws<sup>3</sup>. In the Protection of Children from Sexual Offences Act, 2012, the objective of the Act is to protect children from offences of sexual assault, sexual harassment, and pornography. All the above categories of crimes can be Considered "sexual offenses", but this is not an exhaustive list as in Indian penal Code, 1860 defines various other types of offenses under Ss.354, 354A, 354B and 354C. 354D, 375, and 377 can be classified as sexual offenses. Hence, "sexual offences" can be defined as acts of a sexual nature committed against another person A person punishable by law and a "sexual offender" without his consent Committing these crimes. These crimes can range from minor offenses like committing Sexually explicit references to serious crimes such as rape. A sex offender can be any person, any attempt irrespective of gender, religion, caste, age, place of birth etc. These crimes and the promotion of such crimes are generally punishable Law<sup>4</sup>

## Generally These Offences Can Be Classified Into Three:

**Penetrative sexual assault** or rape penetration is caused into a person’s vagina, anus, urethra or anus using penis, any other body part or any other object.

**Non-penetrative sexual assault** – any act with sexual intent without a person’s consent which involves physical contact without penetration. Eg. Indecent contact, molestation

**Non-contact sexual offences** – any unwelcome sexually determined behaviour, either directly or impliedly, without causing any direct physical contact with a person with an intent to harass a person. Such offences include, any demand or request for sexual favours, voyeurism, stalking, making sexually coloured remarks, showing pornography, etc.

When these offences are committed in most dehumanized way, they constitute sexual violence. WHO defines sexual violence as, “any act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffics women’s sexuality, using coercion, threats of harm or physical force, by any person regardless of relationship to the victim, in any setting, including but not limited to home and work”<sup>5</sup>. Sexual violence or Rape is not limited to non-consensual sex, but it includes many offenses such as attempted sexual act, sexual assault, coercion, trafficking for sexual exploitation, female genital mutilation, etc.<sup>6</sup> Sexual violence is a violation of international humanitarian law and is strictly prohibited in international and

<sup>3</sup>Dr. ISH KUMAR et.al., NATIONAL DATABASE OF SEXUAL OFFENDERS,1 NCRB, 37, 37(2018), [http://ncrb.gov.in/NCRB\\_Journal/NCRB\\_Journal\\_October\\_2018.pdf](http://ncrb.gov.in/NCRB_Journal/NCRB_Journal_October_2018.pdf).

<sup>4</sup> S.511 of the Indian Penal Code, 1860, No.45, Acts of Parliament, 1860 (India) – Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.— (1)Whoever attempts to commit an offence punishable by this Code with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

<sup>5</sup> Gurvinder Kalra & Dinesh Bhugra, Sexual violence against women: Understanding cross-cultural intersections, 55(3) INDIAN J PSYCHIATRY,244,244-245(2013). Also See.1. Geneva: World Health Organization; 2002. World Health Organization. World report on violence and health, (September 6, 2022, 10:20AM) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3777345/>.

<sup>6</sup> World Health Organisation, Guidelines for medico-legal care for victims of sexual violence, WHO, 1 (September 5, 2022, 10:20AM) [https://www.who.int/violence\\_injury\\_prevention/resources/publications/en/guidelines\\_chap2.pdf](https://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap2.pdf).

international armed conflicts<sup>7</sup>. It never occurs by accident but a deliberate and intentional tactic of war, often used to target not only the victims but also their families and communities<sup>8</sup>.

## **Analysis Of Reasons Behind Committing Sexual Offences:**

Sexual assault never happens by accident<sup>9</sup>. There is a false myth in society that sex is the primary motivation for such crimes<sup>10</sup>. Not all criminals have the same motivation or mannerisms<sup>11</sup>. According to Groth, “sexual violence serves to compensate for feelings of helplessness, to reassure the offender about his sexual adequacy, to assert his identity, to retain status among his peers, to defend against sexual anxieties, to achieve sexual gratification, and to discharge frustration”<sup>12</sup>.

Various reasons behind committal of such offences include:

**Cognitive distortions:-** Cognitive distortions in sex offenders are specific or general beliefs/attitudes that violate generally accepted rational norms and have been shown to be associated with the initiation and maintenance of a sex offense<sup>13</sup>. There are five common cognitive distortions among child sex offenders: children as sexual objects (children have a sexual desire and mature sexual urge to enjoy sex), harm nature (sexual abuse is neither harmful nor is beneficial), uncontrolled behavior is outside the perpetrator’s control), entitlement (the offender’s needs and desires override the needs of others), and the dangerousness world (the world is a hostile and dangerous place where you can’t trust anyone or just kids)<sup>14</sup> Rapists have similar beliefs: women are careless (women are inherently different from men and should be treated with suspicion or women are dangerous) and women are sex objects (created to satisfy men's sexual needs), as well as three additional beliefs, namely, that male sexual desire is uncontrollable, entitled, and dangerous in the world when it comes to child abuse<sup>15</sup>. Cognitive distortions allow the offender to rationalize his perceptions to justify his manipulative behavior and Neurological disorder.

Rape can occur as a result of organic brain damage or disorders. Here, offenders find it difficult to differentiate between aggressive and sexual impulses, as both types of impulses originate in the same brain structure, and as a result, they are unable to control their aggressive tendencies during sexual experiences. In addition, people with adverse early developmental experiences have difficulty distinguishing between convulsions due to

<sup>7</sup> Gloria Gaggioli, Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law, ICRC, (September 5, 2022, 09:28 AM) <https://www.icrc.org/en/internationalreview/article/sexual-violence-armed-conflicts-violation-international-humanitarian>.

<sup>8</sup> International Committee of the Red Cross, Advancement of women: ICRC statement to the United Nations, 2014, ICRC (September 5, 2022, 03:30 PM) <https://www.icrc.org/en/document/advancement-women-icrc-statement-united-nations-2014>.

<sup>9</sup> *supra* note 6.

<sup>10</sup> *supra* note 4.

<sup>11</sup> *supra* note 4.

<sup>12</sup> *supra* note 6 at 10.

<sup>13</sup> Caoilte Ó Ciardha & Tony Ward, Theories of Cognitive Distortions in Sexual Offending: What the Current Research Tells Us, RESEARCHGATE, (September 5, 2022, 04:50 PM) [https://www.researchgate.net/publication/233964912\\_Theories\\_of\\_Cognitive\\_Distortions\\_in\\_Sexual\\_Offending\\_What\\_the\\_Current\\_Research\\_Tells\\_Us](https://www.researchgate.net/publication/233964912_Theories_of_Cognitive_Distortions_in_Sexual_Offending_What_the_Current_Research_Tells_Us).

<sup>14</sup> Tony Ward & Thomas Keenan, Child molesters’ implicit theories. 14(8) Journal of Interpersonal Violence, 821,821-823(1999).

<sup>15</sup> Devon L. L Polaschek & Tony Ward, The implicit theories of potential rapists: What our questionnaires tell us, 7(4) AGGRESSION AND VIOLENT BEHAVIOR, 385, 391-320 (2002).

differences in hormonal activity<sup>16</sup>.

**Psychiatric disorders:-** People with schizophrenia or related psychosis often exhibit abnormal sexual behavior. Reports indicate that individuals with schizophrenia are four times more likely to commit serious sex crimes than other mentally healthy individuals. Similarly, patients with hypomania and mania also experience sexual inhibition, which can result in sexual crimes. Schizophrenia patients who engage in sexually offensive activities are categorised into four groups: (1) Persons with pre-existing paraphilias, (2) persons with deviant sexuality arising out of illness or at the time of treatment, (3) persons who exhibit deviant sexuality as a manifestation of antisocial behaviour, and (4) persons who with deviant sexuality resulting from other factors like dementia, head injury or substance misuse<sup>17</sup>

**Behavioural disorders :-** Paraphilic disorders include recurrent, intense, sexually arousing fantasies, urges, or behaviors that disturb or incapacitate inanimate objects, children, or consenting adults, or involve pain or humiliation that causes self or The partner may be harmed<sup>18</sup>. Such people experience emotional disturbances. Many people with paraphilias suffer from personality and anxiety disorders<sup>19</sup>. Scientists are not sure about the causes of paraphilia. This disease is more common in men. The most common types of paraphilia are pedophilia, exhibitionism, voyeurism, masochism and transvestite disorder.<sup>20</sup>

**Childhood trauma :-** Many studies have shown that sex offenders have had negative experiences in their childhood, such as physical abuse, psychological abuse, sexual abuse, and dysfunctional family relationships<sup>21</sup>. Such experiences can foster an insensitive, empathetic, and sterile attitude, which can result in a lack of intimacy and behavioral problems.

**Anger and Revenge :-** Although sex and aggression are included in all types of sex crimes, sexuality is used as a medium to express non-sexual emotions such as anger and hostility towards women and to control, dominate and control women. Used as a means of exercise. Authority over them<sup>22</sup>. Sometimes, sex offenders commit to avenge past incidents. Rape is a common occurrence in many parts of India as revenge. There have been many cases of ordering rape by Khap Panchayat or other official officials for revenge<sup>23</sup>. In 2015, a Pakistani village council ordered a girl to take revenge for her brother's rape of a 12-year-old girl<sup>24</sup>.

**War :-** Rape is often used as a weapon of war<sup>25</sup>. Rape of women and men is the most common form of aggression against the enemy, because it serves the purposes of intimidation, humiliation, discrimination, punishment, control or destruction of a person<sup>26</sup>. It is also used as a means of ethnically cleansing an area and spreading fear by

<sup>16</sup> Jaydip Sarkar, Mental health assessment of rape offenders, 55 (3) INDIAN J PSYCHIATRY 235,234235(2013)

<sup>17</sup> *Id.*

<sup>18</sup> George R. Brown, Overview of Paraphilic Disorders, MSDMANUALS, (September 5, 2022, 02:34 PM) [https:// www. Msdmanuals.com/professional/psychiatric\\_disorders/sexuality\\_gender\\_dysphoria\\_and\\_paraphilias/overview\\_of\\_paraphilic\\_disorders](https://www.Msdmanuals.com/professional/psychiatric_disorders/sexuality_gender_dysphoria_and_paraphilias/overview_of_paraphilic_disorders).

<sup>20</sup> *Supra note 16.*

<sup>21</sup> *supra note 14.*

<sup>22</sup> *Supra note 4.*

<sup>23</sup> India Today Web Desk, Khap panchayat issues diktat to rape and parade two Dalit women naked, INDIA TODAY, (September 5, 2022, 10:36 PM) [https://www.indiatoday.in/fyi/story/khap\\_panchayat\\_issues\\_diktat\\_to\\_rape\\_and\\_parade\\_two\\_dalit\\_women\\_naked\\_289507-2015-08-21](https://www.indiatoday.in/fyi/story/khap_panchayat_issues_diktat_to_rape_and_parade_two_dalit_women_naked_289507-2015-08-21).

<sup>24</sup> BBC, Pakistan village council orders 'revenge rape' of girl, BBC (September 5, 2022, 02:47 PM) [https://www.bbc.com/news/world\\_asia\\_india\\_40731035](https://www.bbc.com/news/world_asia_india_40731035)

<sup>25</sup> World Health Organisation, World report on violence and health, WHO, (September 5, 2022, 10:20AM) [https://apps.who.int/iris/bitstream/handle/10665/42495/9241545615\\_eng.pdf](https://apps.who.int/iris/bitstream/handle/10665/42495/9241545615_eng.pdf).

<sup>26</sup> Prosecutor v. Akayesu, Case No ICTR-96-4, Judgment (2 September 1998) at para 686.

forcing people to leave an area<sup>27</sup>.

## **Conceptual Analysis Of The Term Gender Neutrality**

Sex refers to one of the two main categories, namely, male and female, into which human beings are divided based on their reproductive functions. Although we classify infants born with XY or XX chromosomes as male and female, respectively, the biology of sex is more complex when there are infants with XXY or XO chromosomes<sup>28</sup>. Gender refers to the socially constructed characteristics of men and women—the norms, roles, and relationships between groups of men and women<sup>29</sup>. Gender is a dynamic concept, meaning that men's gender roles vary greatly from one culture to another based on their race, class, socio-economic conditions, age or any other factors. Gender roles determine what is expected of men and women and how they should behave in society, at home or in the workplace, apart from their sex-differentiated activities (pregnancy, childbirth, breastfeeding)<sup>30</sup>. If sex refers to biological differences, gender refers to cultural and social differences and includes a wider range of identities than the binary of male and female<sup>31</sup>.

Gender neutrality is the idea that policies, language, and other social institutions should differentiate people's roles according to their sex or gender. Gender identity is again very different from gender role or gender performance. Gender identity refers to how people internally identify themselves as male, female, or any other gender, while gender identity is how they are portrayed in society. Angad Gummaraju says<sup>32</sup> "Gender identity is how your brain perceives your gender; it is your psychological sex, but sexual orientation is who you are attracted to". But a gender role is the set of behaviors that society expects to be associated with a particular gender at a particular time in a particular culture<sup>33</sup>. Here the society finds it difficult to accept a woman who goes to work while her husband takes care of children and accepts crying men.

Proponents of gender neutrality may seek policies designed to eliminate gender discrimination so that people are treated equally, given equal opportunities, and held equally accountable for their actions. The idea is that no person should be excluded, or in other words, everyone should be given equal opportunities in all walks of life, without gender discrimination in society, except on the basis of their reproductive activities. Adopting gender neutral policies is seen as a better solution for those who identify with or identify with others as intersex, third gender, transgender, genderqueer or non-binary. These people, who identify with a gender different from that given at birth, are often socially excluded because they do

<sup>27</sup> Charllotte Lindsey et.al., woman and war, ICRC, (September 5, 2022, 08:23 AM) [https://www.icrc.org/en/doc/assets/files/other/icrc\\_002\\_0798\\_women\\_facing\\_war.pdf](https://www.icrc.org/en/doc/assets/files/other/icrc_002_0798_women_facing_war.pdf)

<sup>28</sup> Elizabeth Boskey, What Does It Mean to Be Non-Binary or Have Non-Binary Gender? VERY WELL MIND, (September 5, 2022 08:23AM) <https://www.verywellmind.com/what-does-it-mean-to-be-non-binary-or-have-non-binary-gender-4172702>

<sup>29</sup> World Health Organisation, Gender, equity and human rights, WHO, (September 5, 2022 12:34 AM) <https://www.who.int/gender-equity-rights/understanding/gender-definition/en/>

<sup>30</sup> United Nations Economic, Social, and Cultural Organisation, Gender Sensitivity, UNESCO, (Sept 6, 2022, 07:45 PM) [http://www.unesco.org/education/mebam/module\\_5.pdf](http://www.unesco.org/education/mebam/module_5.pdf)

<sup>31</sup> Oxford Dictionary, <https://en.oxforddictionaries.com/definition/sex>, (last visited Sept 6, 2022).

<sup>32</sup> Shivani Singh, Understanding gender neutrality in modern India, THE CITIZEN, (Sept 6, 2022, 12:20 PM) <https://www.thecitizen.in/index.php/en/NewsDetail/index/8/10810/Understanding-Gender-Neutrality-In-Modern-India>

<sup>33</sup> Elizabeth Boskey, What Does It Mean to Be Non-Binary or Have Non-Binary Gender? VERY WELL MIND, (Sept 5, 2022 06:23 PM) <https://www.verywellmind.com/what-does-it-mean-to-be-non-binary-or-have-non-binary-gender-4172702>.

not fit into the binary identities of male and female. That's why people demand gender neutral language<sup>34</sup>, gender neutral parenting<sup>35</sup>, gender neutral dress code<sup>36</sup>, gender neutral education<sup>37</sup>, etc.

In 2012, a gender neutral pronoun "hen" was officially added as a third neutral pronoun in Sweden to describe anyone regardless of their gender identification<sup>38</sup>. In 2017, California Governor, Jerry Brown signed a new legislation that allowed a third gender option on state identification cards and driver's licenses, where an option "X" was added for non-binary residents instead of traditional "M" or "F"<sup>39</sup>. In 2018, New York City adopted a new legislation that offered an option "X" for choosing a third gender in their birth certificate<sup>40</sup>. In the same year, the Netherlands issued its first gender neutral passport<sup>41</sup>. Recently, archbishop of Canterbury has declared that God not the Father and should not be seen as a male figure, but is gender neutral<sup>42</sup>.

<sup>34</sup> Gender-neutral language, gender-inclusive language, inclusive language or gender neutrality is a form of linguistic prescriptivism that aims to eliminate (or neutralize) reference to gender in terms that describe people. This can involve discouragement of the use of gender-specific job titles, such as policeman/policewoman, fireman, stewardess, and, arguably, chairman, in favour of corresponding genderneutral terms such as police officer, firefighter, flight attendant and chairperson (or chair). Other genderspecific terms, such as actor and actress, may be replaced by the originally male term (actor used for either gender).

The pronouns he or she may be replaced with they when the gender of the person referred to is unknown. Some also advocate for a gender-neutral pronoun to be used even when the sex of a person is known, in an effort to remove the alleged subconscious effects of language in reinforcing gender and gender stereotypes. In addition, those who do not identify as either female or male may use a gender-neutral pronoun to refer to themselves or have others refer to them.

<sup>35</sup> Gender neutral parenting is when parents raise their child without forcing any preconceived gender norms upon them and allowing them to choose which one they would rather adopt for the rest of their lives. This allows the child not to be put into a box and grow up according to the conventional gender rules. For example, parents would address the child as 'Baby' in their conversations and not 'Boy' or 'Girl', allow their children to dress in what they want – Whether it means boys wearing pink, or girls wearing blue, keep room décor and the type of toys their kids play with neutral and in general avoid any kind of gender stereotyping. Some would go to the extent of hiding the gender of their child from everyone except their closest family members.

<sup>36</sup> In the marketing of fashion lines, designers are beginning to design gender-neutral clothing, that is not Labelling their clothing as either "men's" or "women's", but depends on suitable for men and women. In today's society gender neutrality is becoming more widely accepted. "Both males and females are now 'allowed' to wear certain clothing items once thought inappropriate for their sex".

<sup>37</sup> Attempts to encourage this mentality in schools are demonstrated by institutions such as Nicolai garden and Egalia, two preschools in Sweden. Their efforts to replace terms "girl" and "boy" to the gender neutral pronoun "hen" grants students the ability to challenge or cross gender boundaries.

<sup>38</sup> Sweden adds gender-neutral pronoun to dictionary ,THE GUARDIAN, (Sept 9,2012, 02:45 PM) <https://www.theguardian.com/world/2015/mar/24/sweden-adds-gender-neutral-pronoun-to-dictionary>.

<sup>39</sup> Sam Levin, 'We exist': California begins issuing state IDs with a third gender option,THE GUARDIAN,(Sept 9,2022, 03:27 PM) <https://www.theguardian.com/world/2019/jan/02/california-non-binary-identification-lgbtq>.

<sup>40</sup> Erin Durkin, New Yorkers to get third gender option on birth certificates, THE GUARDIAN,( Sept 5,2022,03:48 PM) <https://www.theguardian.com/us-news/2018/sep/12/new-yorkers-to-get-third-genderoption-on-birth-certificates>.

<sup>41</sup> BBC, First Dutch gender-neutral passport issued, BBC(September 5, 2022, 04:16 PM) <https://www.bbc.com/news/world-europe-45914813>.

<sup>42</sup> The Guardian, Not in His name: God is gender-neutral, says archbishop of Canterbury, THE GUARDIAN, (September 5, 2022, 01:56 PM) <https://www.theguardian.com/world/shortcuts/2018/nov/21/not-in-his-name-god-is-gender-neutral-says-archbishop-of-canterbury>.

## Gender Neutrality Related To Sexual Offences – Various Facets:

Although sexual offences are widespread around the world, a prerequisite in many parts of the world is that only a certain type of people can commit such crimes. So most sex crime laws treat the perpetrators as always male, while the victims are always female. Although various cases of men being victims of sexual violence have been reported from the past, gender neutrality is widely accepted in today's society, with the general idea that such crimes only serve to torture the victim. "Men and women are now 'allowed' to wear certain clothes that were once considered inappropriate for their sex". Do not cause any sexual offence. Let's analyse this matter from two different perspectives:

**With respect to victim :-** In many countries, a significant proportion of women experience sexual violence, with or without physical violence, whether from an intimate partner or not. Studies show that 40-50% of women in Mexico and the United States experience such violence<sup>43</sup>. The rate of sexual assault in India is very high, according to a Thomas Reuters study, India was recently named the most dangerous country in the world for women by the Foundation. The incidence of rape in this country is increasing every year<sup>44</sup>.

Another major problem is human trafficking. Women and girls are illegally trafficked in countries like India, Japan, North America, Italy and England. According to a study by the US Central Intelligence Agency, 45,000-50,000 women and children are trafficked in the United States annually. Sex workers, whether trafficked or not, are at high risk of sexual and physical violence, especially where previous work was illegal. Rates of sexual violence are high in places such as schools, health care facilities, armed conflicts and refugee settings.<sup>45</sup> With the exception of childhood sexual abuse, sexual abuse against men is the least researched area. Men and adolescents experience sexual violence in a variety of settings, including at home, at work, in schools, in prisons, and in armed conflict. In many states, prison officials, police and military personnel have reported sexual assaults. Studies show that the percentage of male victims of sexual assault ranges from 3.6% in Namibia, 13.4% in the United Republic of Tanzania to 20% in Peru. Most male sexual assaults go unreported for many reasons, such as shame, guilt, fear of not being believed, homophobia, and the belief that no real men are raped<sup>46</sup>.

According to UNICEF, violence against children can be "physical and mental abuse and injury, neglect or negligent treatment, exploitation and sexual abuse, that may take place in homes, schools, orphanages, residential care facilities, streets, workplace, prison and other places of detention"<sup>47</sup>. Sexual minorities are another group targeted for brutal sexual assaults with the intention of humiliating them. These include gay, lesbian, bisexual, transsexual, etc. Despite its pre-colonial heritage of acknowledging and celebrating gender diversity in temple sculptures, mythology and religious texts, transgender people in India face intolerance, stigma, discrimination and violence today<sup>48</sup>. Human rights violations against these people

<sup>43</sup> *supra* note 24 at 151.

<sup>44</sup> First Post, *India ranked world's most dangerous country for women in study; U-turns, political blame games ensue*, FIRST POST, (September 15, 2022, 06:24 AM) <https://www.firstpost.com/india/india-ranked-worlds-most-dangerous-country-for-women-in-study-u-turns-political-blame-games-ensue-4609051.html>.

<sup>45</sup> *Supra* note 24 at 156.

<sup>46</sup> *Supra* note 24 at 154.

<sup>47</sup> Child Line India, *Child Protection & Child Rights: Abuse & Violence*, CHILD LINE INDIA (September 5, 2022, 08:34 AM) [http://childlineindia.org.in/child\\_abuse\\_child\\_violence\\_india.html](http://childlineindia.org.in/child_abuse_child_violence_india.html).

<sup>48</sup> Ministry of Social Justice and Empowerment, Government of India, *Report of the Expert Committee on the Issues Relating to Transgender Persons 2014*, 42, (Sept 6, 2022, 09:36 AM) <http://socialjustice.nic.in/writereaddata/UploadFile/Binder2.pdf>.

begin with their families and then spread to institutions such as educational institutions, workplaces, law enforcement, health care, the media, and society. They are often targeted by gangsters, police and other outposts. In a 2003 report PUCL-K discussed in detail various cases of sexual violence against transgenders<sup>49</sup>. The report divert our focus to the atrocities faced by these communities and how police constantly degrade them by asking them sexual questions, feeling up their breasts, stripping them and in some cases raping them, and thus actually violating their integrity and privacy of the very sexual being of a person.

In 2016, the IBBS Report on Hijra/Transgender People published by the National AIDS Control Organization of the Ministry of Health and Family Welfare, Government of India, from a sample size of 5,588 across 14 domains in 11 states of India stated<sup>50</sup>. “Regarding sexual violence, one-fifth (20%) of H/TGs reported experiencing it in the 12 months prior to the interview. Again, there were multiple perpetrators, including many H/Ts. TGs report more than one type of perpetrator. As with physical violence, sexual violence The main perpetrators are gangsters, reported by 56% of H/TGs. Other commonly cited perpetrators (17-22%) include family members, Consumer and other MSM”

Sexual violence is a common weapon in war and armed conflict, where rape and sexual assault of men and women are routinely used to discourage the enemy. Sexual violence is common in situations of war and armed conflict<sup>51</sup>.

Victims, regardless of gender, suffer many psychological effects, with long-term effects such as guilt, anger, sleep disturbances, post-traumatic stress disorder, depression, anxiety, fear, withdrawal from relationships, suicidal tendencies, etc.<sup>52</sup>

In the case of a child, this violence affects his normal development, often affecting his mental, physical and social well-being and can result in death<sup>53</sup>. These may cause them to react through violent behaviour, absenteeism from schools, stealing, etc.<sup>54</sup>

**With respect to perpetrator:-** The perpetrator of a sexual assault may be a date, an acquaintance, a friend, a family member, an intimate partner or a former intimate partner, or even a complete stranger. But in most cases the person will be someone known to the victim<sup>55</sup>. Studies suggest that gay men experience more intimate partner violence compared to men living with female partners<sup>56</sup>. Also, transgenders experience high rates of intimate partner violence<sup>57</sup>. The attack of Abner Louima by the New York Police Department was an example of vicious sexual assault that led to a march known as the “day of outrage against police brutality and harassment”.<sup>58</sup> In the US, John Kelly was the first to report homosexual

<sup>49</sup> Lynn Conway, Reflections on the PUCL Report, UNIVERSITY OF MICHIGAN (September 6, 2022,02:30 PM) <http://ai.eecs.umich.edu/people/conway/TS/PUCL/PUCL%20Report.html>.

<sup>50</sup> National AIDS Control Organisation, Ministry of Health & Family Welfare Government of India, National IBBS 2014-15:Hijras/Transgender People, 53, GoI/NACO/MES/IBBS/010916, [http://naco.gov.in/sites/default/files/TG-IBBS%20ReportPrint%20text\\_Edited.pdf](http://naco.gov.in/sites/default/files/TG-IBBS%20ReportPrint%20text_Edited.pdf).

<sup>51</sup> *Supra* note 49 at 7

<sup>52</sup> *Id*

<sup>53</sup> *supra* note 47.

<sup>54</sup> *supra* note 24 at 154

<sup>55</sup> *Supra* note 52.

<sup>56</sup> National Center for Injury Prevention and Control, The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report, Centers for Disease Control and Prevention Atlanta, Georgia, 21 (Sept 7,2022, 09:36 AM) [https://www.cdc.gov/violenceprevention/pdf/nisvs\\_report2010-a.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf).

<sup>57</sup> *I'd* at 21

<sup>58</sup> David M. Herszenhorn, The Louima Ruling; Chronology Of The Case,N.Y.TIMES, Mar 1, 2002, at B5. 61 Harshad Pathak, Beyond the Binary: Rethinking Gender Neutrality in Indian Rape Law,11(2) ASIAN JOURNAL OF COMPARATIVE LAW, 367, 367(2016).

violence to the United States Congress, having been raped by his male partner<sup>59</sup>. In 2015, a woman was arrested for forcing an autorickshaw driver to have sex.<sup>60</sup> However, most countries have gender-specific laws dealing with sex crimes, recognizing that such crimes can only be committed by male offenders and that only women should be classified as victims of sex crimes.

In India, most laws dealing with sexual offenses are gender-specific, for example, the IPC, the Protection of Women from Domestic Violence Act, 2005 and the Sexual Harassment against Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013. The 2002 Gujarat riots and the 2006 Khairlanchi massacre are incidents in which women were brutally raped and killed. In the Khairlanchi massacre, there were cases where women were involved with men raping other women.<sup>61</sup>

## Conclusions

The differences between men and women are all socially constructed concepts, the concept of gender neutrality seeks complete government neutrality for all individuals and transgender groups, is rooted in the concept of all people any attempt to hold the oppressed equally and of a particular gender accountable violence is no longer acceptable. Legal recognition will help can help and break negative stereotypes faced by men and transgender groups they have to resist social pressures. Gender-neutral laws that protect men and women equally against these crimes are just one step in addressing this growing problem. The inclusion of men in the sections of the Domestic Violence Act and IPC for protection from domestic violence would be a good start. Even rape laws and sexual assault laws need to be gender-specific to strengthen protections for men.

## Suggestions And Recommendations:

1) **Insertion of Ss.375A, 375B and 375C** -, three new sections to be inserted after S.375:

- **S.375A defining penetrative sexual assault and punishment there of** - that will punish any sexual assault by penetration of any object or any part of the body. Part of the body may include surgically reconstructed male or female genitalia.
- **S.375B defining non - penetrative sexual assault and punishment there of** - that will punish any act with sexual intent without a person's consent which involves physical contact without penetration. Such offences include indecent conduct of sexual nature, molestation, etc.
- **Non-contact sexual offences and punishment there of** - that will punish any unwelcome sexually determined behaviour, either directly or impliedly, without causing any direct physical contact with a person with an intent to harass a person. Such offences include,

<sup>59</sup> 'I'm a Survivor of Rape and Intimate Partner Violence--And I'm a Man' <https://time.com/2951196/male-rape-survivor/> (Sept. 20,2022, 6PM)

<sup>60</sup> Deccan Chronicle, Woman arrested for molesting auto rickshaw driver in Delhi, DECCAN CHRONICLE, (Sept6,2022,12:27PM) <https://www.deccanchronicle.com/150717/nationcrime/article/woman-arrested-molesting-auto-rickshaw-driver-delhi>.

<sup>61</sup> Arvind Narrain, The Delhi Rape Case among Others:Violation of Bodily Integrity, ECONOMIC&POLITICAL WEEKLY,Mar 16,2013 at 12.

any demand or request for sexual favours, voyeurism, stalking, making sexually coloured remarks, showing pornography, etc.

2) **Adoption of new legislation for the protection of transgender rights** -Specific legal recognition for transgender rights will enable the transgender people to identify and express themselves without fear, and ensure their fundamental rights to equality and to life with dignity.

3) **Drafting Transgender Friendly Policies** – India's transgender social faces a higher level of avoidance. As a result, government action is required to assist in integrating such persons into society.

4) **Establishment of Special Police Cell to deal with grave form of sexual Assaults** – A Special Police Cell can be established to deal with grave form of Sexual assaults.

5) **The Court** must guarantee that the appropriate steps are taken against the officials who are delaying the submission of the charge sheet. Also, whether the police recommend charges or the final report is produced, it must be verified that it is not influenced by the accused or any others

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