

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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THE LEGAL SYSTEM OF **SECOND SEXISM IN INDIA**

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ABSTRACT

If we take a moment and think about a rapist, we picture a man. We have an inbuilt thought system that makes us believe that sexual predator will always be a man .Why do we always blame it on men? The act of being a sexual predator or sexual offender is not gender-based. It is the custom and the stereotypical belief engrossed with the social stigma that sexual predators will always be a man. Both men and women can be victims of incarcerated crime. Like all crimes, raping someone is also one of the biggest offenses, it does not matter who is the victim. We have to understand both sides of the coin as in if men can rape women so can a man rape a man and a woman can also rape a man. The world is blindsided by the sexual atrocities faced by men. When men face sexual violence they have the same emotions as the females but they don't come out and say that in the world out loud because of the stereotype of masculinity and social ridicule they would face.

CHAPTER 1 INTRODUCTION:

JURISPRUDENCE which IS THE STUDY OF THE SCIENCE OF LAW deals with law in general and not just any specific statute or a rule. It covers the philosophies , the concepts and the principles. It reveals the true identity of the legislature. The jurisprudential aspect of Indian Penal code started with the first draft of Indian penal code which was givenby First Law Commission, chaired by Thomas Babington Macaulay in the year 1837 and it took around two decades accommodating various revisions and amendments . This led to the final drafting in 1850 and presented to legislative council in 1856.Since that time IPC has witnessed 104 amendments till the year 2021 with that the most recent amendment is the Criminal Law Amendment Act, 2018 which introduced section 376AB, section 376BA and section 376 DA which strengthened the severity of rape laws in India but nothing came near to defining the

punishments given to the perpetrators of male assault cases In this article we will be covering the jurisdiction of the criminalization against the “ second sexism “ in India. The Second Sexism was a book written by Simone De Beauvoir which is a scholarly and a passionate plea for the abolition of the myth of eternal feminine. The second sexism is the neglected sexism which is not taken very seriously. This poses threat for the males because it brings about a great deal of male disadvantage in the society. Here the disadvantage is the discrimination faced by males due to their gender. The sex of the person becomes a background in the minds of people to not get into the realization that they can also be subjected to sexual assault. The mere mention of sexual assault of males becomes a matter of laughable content. It is not something which is done willingly it comes as a byproduct of the laws, conventions and customs which has been prevalent for very long time. In a country like India which is an elusive haven to the peaceful coexistence of various dynamics of culture, heritage , values , beliefs and growing technological advantage why is the sexual assault of men still a subject in which not enough light have been shed upon . The rape law in India as defined under section 375 is wide and covers all aspects of scrutiny when it comes to the rape on women.

Whoever voluntarily has carnal intercourse against order of nature with any man , woman or animal, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section. It is not necessary that there should be a full penetration even the slightest bit can be rape. So in this purview when a woman forcefully causes the penetration of a man can be deemed as rape but nowhere in section 375 it talks about the penis being forcefully getting penetrated into the vagina , anus and mouth by a woman. The section 377 which mentions “against the order of nature” brings a little perspective to the rape on males because when anything is done without consent and with coercion takes the form of sexual assault. The entire disparity on this issue is to be blamed on the sociological conventions in India . Both men and women commit crimes but men are seen that they are more subjected to capital punishments for women. Not only this but the domestic violence against husbands are also increasing in number but very few near to none reach the jurisdiction of court. Therefore this paper will be covering the issues of second sexism.

CHAPTER 2 LITERATURE REVIEW

¹The Silent Male Rape Victims in India by Aakansha Latala and Ishika Agarwal

This paper critically examines male rape in India. It says that to protect women and girls we have enacted numerous laws in society but why are we not taking similar steps for men as well? Why don't we have laws to protect them? There is a stereotype in society that men can't be raped which is the biggest barrier in this case. When we analyze section 375 thoroughly we get that a victim of rape is always a woman and the rape offender is always a man. The 174th law commission of India in March 2000 recommended that rape laws in India should be made gender-neutral to protect male victims too. The underlying principle behind it is a presumption that the offense of rape will be desexualized and the stigma attached to it will vanish. However, the government did not act to implement the suggestions. We have to consider both sides of the coin where males are not the predators but rather the victims. There is a dire need to have gender-neutral laws or else these cases will go unreported as so has been happening.

²This article on Sexual violence against men in India written by Jahnvi Mehta briefly looks into the sexual violence faced by males. It tells how rape has become more of a gendered crime and it is considered it is physically impossible for a female to rape a man. Section 377 only talks about sodomy. Their sexual harassment of women in the workplace places act but there is no act on men. The pseudonyms in society are not capable of recognizing that men can also be victims of the gendered specific crime. We have brought about gender-neutral laws which are equivalent to males as well as females.

³Turchik, J. A., & Edwards, K. M. (2012). Myths about male rape: A literature review. *Psychology of Men & Masculinity*, 13(2), 211.

Male Rape myths are spread extravagantly all across western society. This article reviews the historical origins, development, and current manifestations of male rape myths prevalent in Western society. Their origin is in the field of medicine, media, law, and incarcerated settings. It tries to find remedies to remove these myths institutionally and individually.

¹ <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.ijlmh.com/wp-content/uploads/The-Silent-Male-Rape-Victims-in-India.pdf>

² <https://www.legalserviceindia.com/legal/article-4685-sexual-violence-against-men-in-india.html>

³ <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fa0023207>

⁴Javaid, A. (2015). Male rape myths: Understanding and explaining social attitudes surrounding male rape. *Masculinities and social change*, 4(3), 270-294.

There are a lot of myths surrounding us about male rape victims. These myths somehow form barriers that prevent the victims from reporting the cases. It has a diverse effect on society. This them to not seek treatment and help in society. This paper will examine male rape myths in the areas of media, incarcerated settings, and the wider community, focusing on England and Wales, UK. Male rape myths are related to various belief systems like racism, sexism, homophobia, and ageism. There needs to be a proper examination of these links with well-formulated research in this regard. The roots of the problem lie in these belief unethical belief systems. There need to be various rape awareness programs where everyone is made aware of reports like these. The male rape victims due to societal norms cannot come out in a nutshell to talk about this but when they do they are going to need medical practitioners and counselors to help them guide through this.

⁵Doherty, K., & Anderson, I. (2004). Making sense of male rape: Constructions of gender, sexuality, and experience of rape victims. *Journal of Community & Applied Social Psychology*, 14(2), 85-103. The investigation consisted of 30 males and females which took place separately. They were asked to give their idea and thinking about male rape victims. To this experience, they are subjected to majorly important things – the experience of rape acts and victims of male rape. Compared to gays and women rape on a heterosexual male is considered to be more traumatic. They also said that heterosexual male victims are more subjected to ridicule because if they are going and reporting cases society sees them as if they departing from hegemonic masculinity.

⁶In the article, Second Sexism is written David Baltar we understand that To this day men and women face extreme discrimination. One of the most underlying causes is male patriarchy. The male patriarchy is so strong that women themselves divulge into it and serves its ends. This somehow paves the way for some problems in society because males start thinking that they are a superior breed and for them to face problems is completely inevitable. Due to this society also build on this platform and the second sexism starts to get further ignored. We have to take second sexism very seriously because males also face various kinds of disadvantages which

⁴ <https://eprints.leedsbeckett.ac.uk/id/eprint/1854/>

⁵ <https://onlinelibrary.wiley.com/doi/abs/10.1002/casp.765>

⁶ <https://www.jstor.org/stable/23559072>

does not get highlighted quite often. Since it is a topic that is not spoken out loud in the world so does not mean it does not need well examination. A few years back even child sex abuse was a vague concept to the world but now its recognition has gained dominance in the world.

CHAPTER 3.1 Research problem:

Since that time IPC has witnessed 104 amendments till the year 2021 with that the most recent amendment is the Criminal Law Amendment Act, 2018 which introduced section 376AB, section 376BA and section 376 DA which strengthened the severity of rape laws in India but nothing came near to defining the punishments given to the perpetrators of male assault cases. In this article we will be covering the jurisdiction of the criminalization against the “ second sexism “ in India. There are many laws under jurisdiction that helps every other person to get justice, there are so many cases regarding rape, sexual assault, and molestation these cases are about females as well as males, as we know that males are also victims in many of these case and they have also got raped or sexually assault.

CHAPTER 3.2 Scope of study :

The scope of the paper is limited to the criminalization against the “ second sexism “ in India. The second sexism is the neglected sexism which is not taken very seriously. This poses threat for the males because it brings about a great deal of male disadvantage in the society. Here the disadvantage is the discrimination faced by males due to their gender.

CHAPTER 3.3 Objectives :

1. To analyses why there is no law in India for men
2. To examine section 375 and 377 of Indian penal code (IPC).
3. To understand the perspective of the jurisdiction towards the male victim.
4. To study the difference of Rape on adult male and female.

CHAPTER 3.4 Research question:

- 1 Is Rape on adult male is different from female?
- 2 why does there is no enough awareness regarding sexual violence against male?
- 3 what are the laws regarding Rape in India as well as in other countries?

CHAPTER 4 Methodology:

The method followed throughout the paper is non-doctrinal. The study is based on Primary and Secondary Data. Primary sources referred to in this paper include Statutes, Cases and Books. Secondary sources include various articles and journals that have been referred to for the purposes of this paper. All the information so gathered has been studied analytically to deal with the Research Questions. The non-doctrinal method is used to obtain information concerning the current scenario with respect to the research problem. Analytical research is followed in this paper for the purposes of critically analysing the research problem. All the necessary and relevant materials which form a part of the study are collected from a wide range of sources that include books, articles, journals, newspapers, reports and various seminars. The present study is basically a theoretical one and as such no field study is conducted.

How often do women rape men?

The question above might sound irrelevant but the implication is diverse and hidden. Consider a scenario where a man gets raped and a woman gets raped. The woman has various resources where she can seek help but all men can do is be dead inside. Men getting raped is in itself a very taboo issue.

⁷*The Refugee Law Project which is a partner organization of Christian Aid* projects a horrifying report by Will Storr who travels to Uganda to meet traumatized survivors, and projects that male rape victims and their perpetrators both should be brought to justice. Eunice Owiny was employed by Makerere University's Refugee Law Project to look into the traumas faced by displaced men during the war from all over Africa. This one who had escaped from the civil wars in Congo and then later taken by rebels was being raped over 3 times a day for 3 years continuously.

In Uganda being gay is a crime in 38 out of 53 African Nations. So for me to come out and report the crime meant that they would be ostracized by friends, family, and police authorities. They would be subject to mass shame and humiliation. He met Jean Paul who was one of the rebels in the civil war who was gang-raped by the enemies and raped multiple times. With almost trembling lips he narrated his painful story. He was asked to remove his clothes and

⁷ <https://www.theguardian.com/society/2011/jul/17/the-rape-of-men>

take the position of a Muslim man. He assaulted and raped continuously and was made to do work of the most inhumane nature. He was beaten black and blue every day while 11 rebels waited in a queue to rape him. Jean Paul till today experiences pain and bleeds whenever he walks. Men like these not only go through physical pain but also mental suffering from their wives leaving them behind with their kids. They are left alone and despised. It is believed that men should be strong, powerful, and dominant they have no place to be weak and vulnerable in the world. They are the sole bread owner of the family. If they turn out to be weak then how would he protect his family and children?

Men aren't simply raped, they are forced to penetrate holes in banana trees that run with acidic sap, to sit with their genitals over a fire, to drag rocks tied to their penis, to give oral sex to queues of soldiers, to be penetrated with screwdrivers and sticks.

The researcher Lara Stemple at the University of California reports that male sexual violence is one of the components of wars. There are around 4076 NGOs that talk about wartime sexual violence but very few of them talk about the experience of men.

Margot Wallström who is the UN special representative of the secretary-general for sexual violence in conflict, tells us in a statement that the UNHCR extends its services to refugees of both genders. Since there is a great stigma that men face so there are more cases than are reported. Wallström says that women are mostly the victims but she has seen cases of men and boys getting raped too.

Let's understand that even if male assault victims are not well known but various statistics prove otherwise. ⁸Looking at '*The National Intimate Partner and Sexual Violence Survey*' brief survey

Nearly a quarter of men (24.8% or 27.6 million) in the U.S. experienced some form of contact sexual violence in their lifetime (Figure 2), with 3.5% of men experiencing contact sexual violence in the 12 months preceding the survey (Table 2).

- About 1 in 14 men (7.1% or nearly 7.9 million) in the U.S. was made to penetrate someone else (attempted or completed) at some point in their lifetime.
- o Approximately 1.6% of men

⁸<https://www.nsvrc.org/resource/2500/national-intimate-partner-and-sexual-violence-survey-2015-data-brief-updated-release>

were made to penetrate through completed forced penetration, 1.4% experienced situations where attempts were made to make them penetrate someone else through the use of force, and 5.5% were made to penetrate someone else through completed alcohol/drug facilitation at some point in their lifetime.

- In the U.S., 0.7% of men (an estimated 827,000 men) reported being made to penetrate (attempted or completed) in the 12 months preceding the survey.
- About 2.6% of U.S. men (an estimated 2.8 million) experienced completed or attempted rape victimization in their lifetime.
- Approximately 1 in 10 men (9.6% or an estimated 10.6 million men) experienced sexual coercion (e.g., being worn down by someone who repeatedly asked for sex, or sexual pressure due to someone using their influence or authority) in their lifetime.
- Almost one-fifth of men (17.9% or approximately 19.9 million men) reported unwanted sexual contact (e.g., groping) at some point in their lifetime.

⁹*The Centre For Disease Control and Prevention* shows the statistics as

- 1 in 3 women and 1 in 4 men experience sexual violence during their lifetime.
- 1 in 5 women and 1 in 38 men have experienced attempted rape.
- 1 in 14 men was made to penetrate someone.

¹⁰*The Save Indian Family Foundation* says that as of May 2020, there were at least 1700 men who reported that they have been victims of domestic violence by their spouses. There are no laws about men being victims of domestic violence but the harsh reality is that even husbands are victims of such atrocities. This foundation aims at recognizing men's rights as a part of human rights. Society considers men to be expendables even though most suicide, homicide, and homeless victims are all males.

1. 34.3% of men were affected by economic violence
2. 28.6% of men were affected by physical violence
3. 27.5% of men were affected by emotional violence
4. 20.4% of men were affected by sexual violence
5. The lowest violence that all the men surveyed faced was verbal abuse

⁹ <https://www.cdc.gov/violenceprevention/sexualviolence/index.html>

¹⁰ <https://www.saveindianfamily.org/when-laws-say-mens-rights-are-not-human-rights/>

¹¹*RAINN (Rape, Abuse and Incest National Network)* is one such anti-sexual violence organization that aims to provide justice to perpetrators, help survivors and prevent sexual violence. Millions of men in the United States have been victims of rape.

- As of 1998, 2.78 million men in the U.S. had been victims of attempted or completed rape.⁵
- About 3% of American men—or 1 in 33—have experienced an attempted or completed rape in their lifetime.⁵
- 1 out of every 10 rape victims is male

2. why there is no enough awareness regarding sexual violence against men?

The silence in India needs to break, and we need to spread awareness regarding the sexual violence. Sexual violence against men is a serious issue that often goes unnoticed and unaddressed. Men are often reluctant to come forward and report incidents of sexual violence due to fear of being stigmatized or not being believed. It is important to raise awareness about this issue and create safe spaces for men to speak out and seek support. Sexual violence can have severe physical and psychological effects on male survivors, and it is important to provide them with access to counseling and other resources. It is also crucial to challenge societal norms and stereotypes that perpetuate the idea that men cannot be victims of sexual violence. By acknowledging and addressing this issue, we can work towards creating a safer and more inclusive society for all.

Sexual violence against men is a topic that is often ignored or minimized in our society, even though it is a serious issue that affects a significant number of men. Men can be victims of sexual violence in various forms, including rape, sexual assault, and sexual harassment. However, many people still hold the misconception that men cannot be raped or sexually assaulted, or that such experiences are not as traumatic for men as they are for women. Sexual violence can have a devastating impact on men, both physically and emotionally. It can cause a range of psychological issues, including depression, anxiety, post-traumatic stress disorder (PTSD), and suicidal thoughts. Men who have experienced sexual violence may feel shame, guilt, and fear, and may be reluctant to seek help due to the stigma and shame associated with being a male victim of sexual violence.

¹¹ <https://www.rainn.org/statistics/victims-sexual-violence>

CONCLUSION:

Justice Krishna Iyer said, “When a woman is raped, what is inflicted is not mere physical injury but a deep sense of some deathless shame. Most of the countries have succeeded in making gender neutral laws for rape. The Indian Legislature too has to come forward and make such laws. We are living in the 21st Century where we believe solemnly in Article 21 i.e right to equality. If our Constitution has already adopted the fundamentals of right to equality in various sphere then it also has to adopt in the basis of sexual abuse and rape happening on men all across India. The legislature makes laws suiting to the emergency of the crisis in the country, rape happening on men doesn’t make the headlines everyday since men fear the stigma which comes along with it. This social stigma has to breakthrough in order for men to come up and address this issue. It is time the citizens acknowledge this fact and support the male victims of sexual violence when they report the cases and both men and women perpetrators of sexual violence should be punished equally under law for this brutal crime

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