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IS RAPE ATTEMPTED ONLY ON FEMALES? THINK AGAIN.

- Aditi Gupta & Garvita Bansal¹

ABSTRACT

This paper deals about male rape and how it is becoming a problem in today's world as we do not have any laws regarding male rape in our legislature. Under current Indian legislation, rape is only committed against women by men, which is not true. This paper argues that the double standards which support the gendered stereotypes about male and female sexuality is not justified and that the cases where a man is forced to penetrate should be considered and given legal recognition. This paper shows that Male victims are highly neglected and how badly they are affected by it. The authors want to make aware all the readers that male rape exists during war time too. This paper shares true stories of people who have gone through this trauma and shows how other countries have made changes in their laws by inserting gender neutral laws regarding rape to some extent.

The authors through this paper, want to spread awareness among the people and make them recognise about male rape as an issue and how one shouldn't keep quiet about it. There is a necessity for victims to come forward so that they can seek help. The biggest agenda or topic which the authors want to bring to light is making the country gender neutral as a whole and the need to make necessary amendments by our country in order to accomplish this.

Hence, the authors request all the readers to read this paper and think upon it because now, it's high time that we should start paying attention to it.

I. INTRODUCTION

Rape, a word which is fearful and gives us a dreadful feeling. In our daily lives, when we listen to the news or read the newspaper, we come across so many cases where a woman is being raped by a man. Indian law recognizes rape as a crime or an act which is committed by a man

¹ Students at JEMTEC School of Law, Greater Noida

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against a woman as per section 375, IPC.² In today's era, there are many people who think or believe that men cannot be raped but this is not the truth, Men can be raped too and women can also rape men though the definition of rape doesn't include anything which shows that women can rape but women can. According to section 375 of Indian Penal Code, a man cannot be a victim and a woman cannot be an offender. Male rape has gained very little attention in the legal sphere. It has now become very important for us to understand the issues of male rape in law. Most of us might not think but sexual assault can be committed by anyone and can happen with anyone irrespective of age, gender and sexual orientation. Several decades ago, rape of women, children was not given importance, mostly neglected and denied just like that today, in 21st century, men rape cases are neglected though there are cases of male rape but no one gives importance to them or most of them go unreported may be because of the fear that justice won't be delivered to them.

II. MALE RAPE VICTIMS EXIST

We live in a society with a masculine custom and where male rape is a taboo. On hearing of male rape cases, our society often reacts in a weird way. There are many people who assume that heterosexual men are unable to be raped and because of such male rape myths, victims are often left untreated. From the very beginning male children are taught to be very strong, to be able to protect themselves. In some societies, if a male cries, they say, ladkihaikya? In a country like India, Men are not supposed to feel any pain and if he does then he is not considered as a man. They consider all this as unmanly. They don't accept the fact that men can be vulnerable too. There are number of myths about rape which are stereotyped, false beliefs about rape, victims of rape. Research shows that male rape victims are less likely to report the case to the courts or to the police than the female rape victims because our society teaches us that men can't be victims of sexual assault and this vague thinking doesn't let the male victims speak up. People live in denial. The societal pressure and the thought that their masculinity or potency will be questioned by people doesn't let the male rape victims to open up about their pain. They are scared to share their pain and when some of them do, they are not believed, neglected and are called shameful. Majority of victimised men wear a fake smile and hide their pain. Unfortunately, male survivors of rape have to struggle on their own to deal with their pain.

There are incidents which show male victims exist. There was this horrifying incident which

² *Indian Penal Code, 1860.*

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took place in Delhi, a 13-year old boy, raped by six men and forced to have his sex changed. According to the updates, the boy met the accused in Laxminagar at a dance event and he was later invited by those men to Mandaveli area on the promise of learning dance form, the victim in the police complaint told that he was intoxicated and the accused performed a sex change surgery and also gave hormonal medicines which made him look like a girl and he was also gangraped. Now a case has been filed against the accused under IPC.

Actor Rahul raj singh, revealed in 2018 that he was sexually harassed and he is the first man in the film and TV industry to come out as a part of "Meetoo movement" in India.

Another Bollywood actor named SaqibSaleem revealed that he was sexually assaulted when he was 21. Telugu actor, Rahul Ramakrishna took to twitter in 2020 that he had been raped during his childhood. Other than these, there are many cases which we don't know because they are not reported but this doesn't mean that male victims don't exist.

We all have heard women getting raped by men but have you heard men getting raped by women? Our society believe that men can't be raped by women and they can't be forced to have sex against their will but the fact is that any gender can be forced for the same. Forced penetration is a thing and men are made to penetrate women's vagina, anus or mouth with his penis without their consent or by force, coercion. Our law doesn't recognise it as a crime because it defines rape as something which is solely done by men against women. There are many other countries which doesn't properly recognise women raping men as a crime. Talking internationally, Jimmy benet, sexually assaulted Asia argento who is an actor and director at the age of 17. There are many women who are accused in the international #MeeToo movement for sexual violence.

III. DURING WAR

Yes rape takes place in every armed conflict where sexual violence is committed. Male rape happens more than we think in the armed conflicts. Rape assault being one of the most terrific weapon used against women in wartime but there were a large number of men being its victim too. It is one of the darkest and secretive weapons used against men during war. In times of war, the soldiers who emerged victoriously were given the right to rape the defeated soldiers. It was believed that either forged or consensual, a male Who suffered from carnal intercourse has lost his manhood and thus was incapable to become a ruler or a warrior.

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Rape is not limited to any particular part of the world but it is widespread all over the world ,neither it is confined to state forces, armed conflicts, nor limited to any age of victims or the place of commission. Rape in armed conflicts has crossed all the range of possibilities, present. Rape against men in armed conflicts when documented, the number varied ,as in some conflicts it was periodic and ad hoc in others it was systematic.

In conflict, sexual violence against men are certainly not at the rate of sexual violence against women but male sexual violence has been recognised as regular and an exceptional, pervasive and widespread. In former Yugoslavia conflict, there was a most thorough investigation of sexual violence which was committed with such atrocity, examples of male sexual violence were found at all stages of investigation process from reports of non-government organisations, individual states and UN experts.

In northern Uganda, in recent years there have been ongoing attacks against Government forces by rebels . At the time of conflicts men are usually attacked , kidnapped, and raped and were forced to fight for rebel groups.

A TRUE STORY, JACK WILLIAMS, 71, ENLISTED IN THE AIR FORCE, ASSAULTED IN 1966

“Sleep does not come easy, No investigator ever called me, Nothing was ever done.”

- Mr. William

An Air Force drill sergeant told Mr. William If you report this , no one will believe you . Mr. Williams recalled, it was 2 a.m. in the sergeant’s office. The sergeant had just choked Mr. Williams, and then had raped him over a desk while dozens of other recruits slept in the next room. The military had no response and prevention program in 1966, there were no protections for troops who reported assaults, said Mr. William.

The sergeant used to rape him twice more during basic training, he said.

Each time he kept quiet , so that he could make it through boot camp.

As soon as Mr. Williams graduated, he reported what had happened to him, but no action was ever taken.

Rapes had left him with damaged kidneys and a torn rectum therefore, he was missing too much training in order to get his treatment. His chain of command began to complain about his performance, he was soon forced out of the Air Force for being medically unfit.

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Mr. Williams said, "I had a future, I wanted to serve my country, and I was good at what I did, that was all taken away from me."

IV. EFFECT OF RAPE ON MEN

Everyone has extensively heard or studied about how women are affected after getting raped by men but we haven't studied enough about the reactions men face after being raped though sexual assault is a trauma for all those who have gone through it but we still hear people saying that, "men are less likely to be affected by sexual assault than women are" but the fact is men also suffer equally as women do or they are more likely to be affected than women because of the society, which doesn't let them open up about their pain. Studies have shown that males get more depressed than females after getting raped. There are many reactions males get after being raped. Some of them include emotional shock, being embarrassed, anxiety, powerlessness, guilt, physical stress. They are not able to face the society, they feel shameful. For most men, it becomes hard to handle and because of that they commit suicide. Studies have also shown how men become self-destructive, aggressive after being raped. They start drinking, taking drugs, and smoking. Many men fear and start pulling back from relationships, they isolate themselves.

V. LAWS REGARDING MALE RAPE IN OTHER COUNTRIES

Gender neutral laws have been accepted and established by 77 countries around the world UK, USA, are among these countries who have accepted gender neutral laws to some extent.

UNITED KINGDOM

Criminal Justice and Public Order Act 1994, have initially made changes in UK regarding rape laws by removing the word buggery from the statute and added the term "non consensual anal as well as vaginal penile penetration". This was for the first time when the UK has made some efforts in recognising male rapes in their legal system.

Later" **Sexual Offense Act, 2003(England and Wales)**" redefine it by adding non consensual penetration through the mouth but still rape laws in UK are not completely gender neutral because rape still requires penile penetration and women cannot be penalised for raping men as per the current definition.³

³ The scope of male rape: A selective review of research, policy and practice, ResearchGate,
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UNITED STATES

The definition of rape in US does not include the word” **woman or girl**”. They have used the word “**person**” in making the definition of rape gender neutral. This Concept includes all types of genderVictims and offenders.The USA legislation has also admitted that rape with an object is as serious as non consensual penile penetration and will be considered as rape only ,unlike the other countries in which penetration of a penis and penetration with an object is considered different and generally provides separate statues for it.

US was the first country who equalised object penetration and penis penetration and considered both as rape.

CANADA

Canadian government has gone even more further in making the rape laws more gender neutral. In 1983 “**Bill C-127**” was passed by the Canadian legislature that provided three graded categories of sexual assault. Aligning with the US laws ,the Canadian laws have also recognised penetration through object and it will also constitute as rape and penile penetration cannot be the sole ground for the offence of rape.⁴

SCOTLAND

The Sexual Offence (Scotland Act 2019) had made serious changes in rape law:

“The intentional or reckless penetration of the penis (to any extent) into the vagina, anus or mouth of another person, without that person consenting and without any reasonable belief that consent was obtained”.⁵

In this definition the word “**women** “was replaced by the word “**person** “to include male victims in the definition as well.

NORTHERN IRELAND

In Northern Ireland, the rape laws have been changed by removing the term” non-consensual intercourse by man “to “non-consensual intercourse by a person” to provide justice to the male

⁴ The scope of male rape, *supra* note 4.

⁵*Id.*

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victims by making the law gender neutral under “**Criminal Justice (Northern Ireland) Order, 2008**” .Further this definition has been extended by “**(Sexual Offence Northern Ireland Order, 2008)** “ to include oral rape as well.⁶

VI. MALE RAPE AND INDIAN LAWS

In India definition of rape consist of penile penetration or any other foreign object into the vagina, mouth, urethra, anus of a woman without her consent or manipulates any part of the body of a woman or applies mouth to the vagina, anus, urethra of a woman. The definition of rape as per section 375, IPC⁷ is not gender neutral and it only covers the cases where a man rapes a women, and doesn't cover cases where a woman rapes a man or where a man rapes another man. There is no particular section or a clause for the rape of men, all the laws are only made for females except for section 377,IPC which criminalizes all acts of nonconsensual carnal intercourse, including male on male rape.

If we broadly analyse the definition of rape in India we come to a clear conclusion that:

- A rape victim is necessarily a woman and;
- a rape offender is a man always.

The Indian penal code has a problem of not taking into account the non-consensual sexual act on a man by a woman and always considers women as a victim because of which many false rape cases are filed against men, just for the sake of revenge.

- **Tilak Raj v. State of Himachal,**⁸
- **Malti Chauhan v. State (government of NCT of Delhi)and Ors.,**⁹

On the basis of these false rape accusation it is quite evitable that sometimes women use law in an unfair manner and as a result of it victims are put behind bars without committing any crime. This inequality in treating male rapes differently from female rape has affected the equalitarianism of our Constitution. However we have "POCSO" (protection of children from sexual offences) which gives protection to the male child from sexual offences. If we can make laws for protecting the male child then why can't we make laws for protection of adult males?

⁶*Id.*

⁷*Indian Penal Code,1860.*

⁸ AIR 2016 SC 406.

⁹ 2016(1) JCC 343.

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Insiadariwala surveyed 1500 male out of which 71% of men surveyed said they were abused, 84.9% said they had not told anyone about the abuse and the reason behind it was (55.6%), followed by confusion (50.9%), fear (43.5%) and guilt (28.7%).¹⁰

16th of June 2018, a 20-year-old boy was been a victim of sexual assault by five men in Ghaziabad and a foreign object was inserted into his rectum but as we do not have any particular law on account of such offences the case was registered under section 377 of IPC.

VII. CONCLUSION

It is saddening that in the 21st century, people associate manhood with sexuality. It is said that Manhood is lost when a victim is being raped, instead of saying this we should recognise his pain and help him to overcome the trauma he has experienced. Majority of cases are being unreported because no laws have been made to protect males and therefore awareness must be spread across the country so that the male victim will not suffer in silence. The benefits given to female rape victims should also be given to male rape victims.

We have witnessed over the years, laws have been revised to meet the social, economical and political needs of time. And we all know that with changing times we need to add new rights to meet the requirements of society. Over the years, the amendments come with important tools to serve with times. We have witnessed the Nirbhaya case after which there were a lot of amendments within the sexual offences against women which have contributed tremendously towards the safety of women.

Under Indian legislation, there are many amendments which have taken place in various laws but there are no provisions made regarding the male rape. The gender neutral law has now become the need of the hour. It is time for the Indian laws to recognise male rapes as a heinous crime and for that laws should be made.

Accepting Male Rapes would surely make a difference rather than ignoring them.

¹⁰Rituparna Chatterjee, *"The mindset is that boys are not raped": India ends silence on male sex abuse*, The Guardian, May 23, 2018.