

CRITICAL ANALYSIS OF GENDER NEUTRALITY IN CRIMINAL LAW AND JUDICIAL APPROACH

A dissertation to be submitted in partial fulfilment of the requirement for the
award of the degree of Master of Laws

In

School of Legal Studies

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2022-2023

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ACKNOWLEDGEMENT

I acknowledge the heartfelt thanks to the School of Legal Studies. B.B.D. University. for giving me the opportunity to complete my dissertation for the Partial Fulfilment of the Degree in Master in Laws.

I am thankful to my Supervisor Mrs. Dr. Rajesh Kumar Verma sir, Associate Professor, SoLS for not only helping me to choose the dissertation topic but also for his valuable suggestions. and co-operations till the completion of my dissertation. Notwithstanding his busy schedule, he was very generous to accommodate me whenever I approached him for advice. He has provided me every possible opportunity. and guidance. and being a support in completing my work.

I am indeed grateful to my mother Mrs Rani Srivastava, and my father Mr. Ashok Kumar Srivastava, for their moral support, constant encouragement and manifold help they render to me

I am thankful to everyone from core of my heart.

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LIST OF ABBREVIATIONS

| <u>Abbreviations</u> | <u>Full Form</u> |
|----------------------|---|
| A.I.R | All India Report |
| Cr.Pc | Code of Criminal Procedure |
| Cr.LJ | Criminal Law Journal |
| ECOSOC | Economic and Social Council |
| HR | Human Rights |
| ICCPR | International Covenant on Civil and Political Rights |
| IPC | Indian Penal Code |
| SC | Supreme Court |
| HC | High Court |
| SCC | Supreme Court Cases |
| UNECOSOC | United National Social Economic Council |
| UN | United Nation |
| UNHRC | United nation human right commission |

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- I. Air India v. Nergesh Mirza AIR 1981 SC 1829
- II. Anuj Garg & Ors versus Hotel Association Of India & Ors AIR 2008 SC 663
- III. C.B Muthamma v. Union of India AIR 1979 SC 1868
- IV. Dastane v. Dastane AIR 1975 SC 1534
- V. Dettatreya v. State of Bombay AIR 1953 (Bom) HC 311
- VI. Gaurav Jain v. Union of India AIR 1997 SC 3021
- VII. Government of Andhra Pradesh v. Vijay Kumar AIR 1995 SCC (4) 520
- VIII. In Githa Hariharan v. Reserve Bank of India AIR 1999 SC 1149 1999 (2) SCC 228
- IX. Joseph Shine v. Union of India AIR 2018 SC 1676
- X. Kalpna v. Surendra AIR 1985 All 253
- XI. Mackinnon Mackenzie & Co. Ltd v. Audrey D'Costa & Anr IR 1987 SCR (2) 659
- XII. Madhu Kishwar & Ors v. State Of Bihar & Ors AIR 1996 SCC (5) 125
- XIII. Mohd. Ahmed Khan v. Shah Bano Begum AIR 1985 SC 945
- XIV. NALSA v. Union of India AIR 2014 SC438
- XV. Narendra vs. K. Meena (2016) 9 SCC 455
- XVI. Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.
- XVII. Neera Mathur v. LIC AIR 1991 SC 392
- XVIII. Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T,

- XIX. Prosecutor v. Jean-Pierre Bemba Gombo. Case No. ICC-01/05-01/08.
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- XX. Rafiq v. State of U.P 1981 SCR (1) 402
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CHAPTER – I

INTRODUCTION

In recent years, women have been the target of abuse on every continent. Evidence of this is the worldwide movement to eradicate violence against women. Violence against women has increased as a consequence of shifts in economic and social values, cultural norms, and personal wealth, as well as a general disregard for moral ideals. Crimes like this are a serious issue, and the framework of the law is essential if Indian women are to live their lives in safety and security, free from fear of harassment, assault, and other forms of violence.¹

There are various laws that punish offenders who commit crimes against women. While the Indian Penal Code has provisions for women as victims of numerous crimes such as murder, robbery, theft, and so on, there are other crimes that are fundamentally classed against women and are known as "Offences Against Women." In order to combat these crimes effectively, many new socioeconomic offences have been developed, along with other changes to existing legislation.

The concept of violence has existed for a long time. However, it is becoming more frequent and spreading by the day. Despite deterrents and public awareness, the situation is worse. Mental or physical trauma may affect everyone, regardless of gender. Violence may be caused by a variety of variables, including psychological, behavioural, and social issues.

However, Indian laws and judicial systems pay the least attention to crimes against males. A recent instance drew public attention when a Lucknow taxi driver was assaulted in the middle of the night on a public road by a female who reportedly took and shattered his phone. During the inquiry, it was discovered that the driver was not guilty; similarly, in 2014, two sisters from Rohtak attacked a youngster on a bus, accusing him of 'molestation'. The girls were dubbed "Rohtak bravehearts," but a succession of similar occurrences of female beatings revealed that the boy did not bother the girls, and when the boy reacted, the girls recorded films and accused

¹ <https://blog.ipleaders.in/offences-against-women/>

such males of molestation. Despite the fact that the lads were cleared by the authorities, who would account for the loss of their image and the emotional agony they endured?

These occurrences are fairly prevalent today, and they act as a mirror to society, reflecting preconceived notions about males being the sole offenders of molestation and harassment, or any other wrong that happens in our society. Since time immemorial, women have been seen as "victimized." They have been seen as physically weak, unable to respond against physical violence done on them by their male counterparts, whether it be their father, brother, spouse, or even in laws.

Not just males, but the law is quite murky when it comes to crimes against transgender people. Whether a transgender person may be raped 'legally' or not? Is it possible for a transgender person to be a victim under the Protection of Women from Domestic Violence Act? Can a transsexual person sue under Section 498A IPC if she is harassed by her in-laws? All of these are murky areas that our judicial system has neglected to investigate.

Violence against any person, in its broadest definition, is a violation of a human's individuality, mental or physical integrity, or freedom of movement via individual acts and systemic tyranny. Sterilisation abuse, prescription medication addiction, pornography, stalking, assault, and rape are all examples of such violence. It includes both sexual and physical abuse of a minor.

1.1 Sexual Violence

Sexual violence is seen as a women's problem, as a weapon of war against women and girls. The males are the victims who go unnoticed by society and are only recognised as footnotes, therefore not gaining adequate worldwide attention. While female victims clearly make up the majority of victims, sexual violence against men and boys in war settings has always been and continues to exist. It is impossible to determine the number of male victims in the sexual violence discussion as long as the general scope of male sexual assault remains unresearched. This subject has received insufficient attention so far. Underreporting is a result of shame, fear, and additional stigmas associated with homosexuality being illegal in many patriarchal societies, a lack of available and appropriate services for survivors on the one hand, but also disbelief among health workers, as well as omission of the problem and lack of attention in the media and international community.

According to Indian Penal Code Sections 375 and 376, only males may be held guilty of rape, and only women can be the victim. The rules that regulate stalking, voyeurism, and sexual harassment are likewise gender-specific, which means that only women may be victims and only males can perpetrate the crimes.

The notion that a rape victim can only be a woman lies at the heart of Indian law. This stems from the assumption that rape is exclusively a sexual act committed to satisfy the offender's/perpetrator's sexual desire. It is a frequent fallacy that women are always victims and men are always offenders, however guys are also victims of sexual attacks and false charges. India's archaic standards governing sexual assaults and how they restrict men and transgender individuals access to justice are serious issues that must be addressed.

The study of the causes and effects of sexual violence against males is an essential complement to the continuing study of sexual violence against women. Sexual assault affects not only the victim but also the whole community.

The consequences have far-reaching impacts that modify and damage a society's social fabric. Missing the effects of sexual violence against men, as well as the consequences of sexual violence against women on men, results in an incomplete picture of the impact of sexual violence on a macro level, as well as how it impacts society and gender relations inside. Men's perspectives and challenges must be explored and incorporated in order to comprehend the ramifications of sexual assault and societal upheaval. In addition, the prevailing paradigm of male offender and female victim must be questioned.

As we all know, the Preamble guarantees all individuals Justice, Liberty, and Equality in terms of position and opportunity. According to Article 14 of the Constitution, the state provides equal legal protection to all people inside Indian Territory. According to Article 15, states may not discriminate solely on the basis of gender.

It goes beyond equality and empowers women via positive discrimination in line with Article 15(3), which enables the state the freedom to pass any special legislation or regulation for the benefit of women. Article 16 advances the Preamble's objective by providing equal job opportunities to all persons. However, the state has overlooked and dismissed the problem of male/transgender sexual victimisation in institutional settings such as prisons and juvenile

detention centres, causing the nature, dynamics, and impacts of male and transgender victimisation to deteriorate. Male and transgender sexual victimisation has been neglected and extensively criticised in contemporary intellectual and legal discussions. Despite the fact that males are often seen as sexual aggressors, there has been an upsurge in male victims' interactions with the criminal justice system.

When the offender is in a position of power or control, aggravated rape is a crime under Section 376 of the IPC. If the lady testifies that she did not consent in such an aggravated rape case, Section 114A of the IEA of 1872, as modified, shifts the presumption to guilt. Again, it is incorrect to presume that persons in positions of power can only control women and no other identities.

We are aware that guys engaging in forcible sexual behaviour with men is banned under Section 377 of the IPC since it violates nature's order. In its 172nd report, the Statute Commission of India called for a gender-neutral rape statute. Others believe that this circumstance necessitates respect to the basic principles of equality before the law and equal protection of the rights guaranteed in our Constitution. One may argue that only gender-neutral rape legislation would provide equal protection for all identities. The truth of our civilization must not be overlooked.

Sexual violence is defined under international law as sexual actions done against any person using force, fear of force, or compulsion. **Rape, sexual slavery, forced prostitution, forced pregnancy, and forced sterilization are all examples.** Sexual assault against anybody, including men, boys, and/or LGBTIQ+ people, is illegal under international humanitarian law (IHL), international criminal law (ICL), and international human rights law (IHRL)².

International criminal law has gender-neutral definitions of sexual violence, which means that it outlaws sexual assault against anybody, including men, boys, and/or LGBTIQ+ people. The ICC Statute's concept of sexual violence is purposefully gender-neutral, recognizing that any individual might be a victim of the war crime of sexual assault. Despite being acquitted on other grounds in 2018, the ICC prosecuted and convicted **Jean-Pierre Bemba Gombo** for male rape on the particular charge of rape in **2016**, becoming the **first international court** to do so.³

² ICTR, Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, 2 September 1998, para 688,

³ Prosecutor v. Jean-Pierre Bemba Gombo. Case No. ICC-01/05-01/08. Appeals Judgment

Although international law clearly prohibits sexual assault against men, boys, and/or LGBTIQ+ people, local legislation is less consistent. Domestic laws should avoid restrictive definitions that, for example, preclude some people from being identified as victims/survivors of sexual assault because of their gender. Domestic law should also guarantee that a victim's or survivor's access to justice is not hampered by counter-charges that criminalise particular sexual actions even when the conduct is non-consensual, which means that the victim/survivor may face charges after reporting sexual assault.

1.2 BACKGROUND OF SEXUAL VIOLENCE

Rape is India's fastest-growing crime, and data reveal that rape of women and young girls has increased considerably in recent years. The number of rape complaints registered in India surged by 873.3 percent between 1971 and 2011, according to the National Crime Records Bureau (NCRB)⁴ (The Times of India, Dec 27, 2012). Experts suggest, however, that the real number of rapes is far from being recorded due to the enormous number of unreported instances (Human Rights Watch: December 29, 2012). For a multitude of reasons, including victims' fear of revenge from their abusers and a lack of treatment choices, rape is one of the world's most underreported crimes.

The purpose of this thesis is to educate and raise awareness about sexual assault against males. the causes for its maintenance and its consequences within a patriarchal culture. The following questions motivate this thesis: Why are men targeted for sexual violence, and under what conditions and in which settings is sexual violence against men likely to occur? What are the community's responses, and what are the implications for male survivors?

Sexual assault affects individuals of all ages and communities, including LGBTQ people. Sexual assault affects lesbian, gay, and bisexual persons at comparable or greater rates than heterosexual people, according to the Centres for Disease Control and Prevention (CDC).

According to the National Coalition of Anti-Violence Projects (NCAVP), roughly one out of every ten LGBTQ survivors of intimate relationship violence (IPV) has been sexually assaulted

⁴ The Times of India, Dec 27, 2012

by those partners. According to studies, about half of transgender and bisexual women will encounter sexual assault at some point in their lives.

LGBTQ individuals experience higher rates of poverty, stigma, and marginalisation as a group, making us more vulnerable to sexual assault. We also have greater incidences of hate-motivated violence, which often manifests itself as sexual assault. Furthermore, the manner in which society both hypersexualizes and stigmatises LGBTQ people and our relationships may lead to intimate partner violence stemming from internalised homophobia and shame.

Yet, as a community, we seldom discuss how sexual violence impacts us or what our community's specific needs are for preventing sexual assault and supporting and caring for survivors of sexual violence.

Although India claims to be making progress towards gender equality in this age, its courts still fail to understand and observe "gender neutrality" in cases involving sexual assault. While India has always recognised the existence of males and females, recent legislation has been a step in the right direction by recognising transgender individuals and guaranteeing them the same constitutional protections as men and women.

The court eventually accepted transgender people in *NALSA v. Union of India*⁵, elevating them to the status of "third gender."

We tend to assume that people are unmistakably men or women and dismiss the violence faced by those who do not conform to the binary..

1.3

DOMESTIC VIOLENCE

Domestic violence against males refers to violence against men or boys in an intimate relationship, such as marriage, cohabitation, dating, or within a family. In India, male victims of intimate relationship abuse have become a severe problem. Victimization of males by their

⁵ AIR 2014 SC438

female spouses is a severe societal issue that is frequently disregarded by society. A societal convention in India demonstrates that males are the stronger and more dominant gender who do not allow women to rule. As a result, male victims are reluctant to acknowledge to being victims of intimate relationship violence at the hands of females.

"This societal power structure is reflected in interpersonal relationships, and men misuse the power they have in their relationships because they have been socialised to believe they have the right to control women, even through violent means," write Hines, Brown, and Dunning (2007)⁶. This school of thinking has made it difficult to believe that females were capable of perpetrating intimate partner violence and that females were acting in self-defense against their assailants. Victims of domestic abuse are often married men. Home-based violence against males is common, yet typically goes undetected. Violence is wrong, and no man deserves to be beaten, sexually assaulted, or emotionally harmed. Our culture has created a climate in which the abuser is tolerated but the victim is not. However, since domestic abuse is such a delicate subject, there is little information accessible. This research will attempt to identify and close the gap that leads to violence against males.

Domestic violence has been restricted and seen only as a female problem. The most of the research work study present men as offenders and women as victims of domestic violence, resulting in a hazy understanding of this very deadly societal reality- domestic abuse. As a result, this dissertation studies and experimentally adds to knowledge on the causes, typologies, and repercussions of domestic violence against women.

1.4_

STUDY OBJECTIVES

There is enough data on studies of women as victims of sexual, physical, mental, and emotional violence, but there is almost no study that points out the misuse of these laws by women against men to implicate them on false charges of dowry, rape, and so on, causing agony to the husband and his relatives. Although there is very little evidence on this subject since cultural conventions do not allow or believe 'men' and transgender people to be victims of gender

⁶ (Hines, Brown, & Dunning, 2007).

violence. Gender violence against a 'man' is not permitted or considered by cultural norms. This research paper investigates the extent of the need for gender-neutral laws that cater to male and transgender victims of domestic, physical, and mental abuse. It also investigates the need for gender neutral laws that cater to male and transgender victims of sexual offence.

1. The goal of this research is to acquire a better understanding of some of the underlying causes of the rise in sexual assault in India.
2. To investigate domestic violence in India and its growth in light of current culture
3. To investigate the shifting dimensions and extent of 'gender abuse,' as well as the judicial attitude and its consequences.
4. To investigate 'crime' in India from a gender-neutral standpoint.
5. To investigate the need for gender-neutral legislation governing sexual and domestic violence.

1.5 REVIEW OF LITERATURE

- **A book by Vandana⁷**

This book delves into the complex relationship between gender and sexual abuse. In each instance, it tracks the evolution of Indian law. It thoroughly examines several crucial legal problems concerning rape and sexual harassment, as well as the judicial reaction in each case as shown by judgements of higher courts, with a concentration on the decisions of the Supreme Court of India.

⁷ Vandana: - Sexual Violence against Women

- **COOK PHILIP W⁸**, an investigative journalist, gives an altogether new viewpoint on domestic violence in his book 'Abused men: Hidden Side of domestic abuse' (2009), where male victims' suffer at the hands of their intimate relationships. The book includes a series of personal interviews with male victims, as well as statistics and data on the frequency of violence against males. Despite studies that concentrate on numbers that attract attention to domestic and workplace violence against women, hundreds of additional empirical facts have been given to illustrate that males are as susceptible to domestic abuse. Though a new movement has emerged of male rights activists' calling for the creation of laws and regulations to combat the developing cult of violence against males.

- **Betina Arndt's #MenToo.**

#MenToo is a book written by a former clinical psychologist and one of Australia's earliest sex therapists, who rose to prominence by breaking down sex-related taboos. Now that it is men's lives, we are not permitted to discuss the very real issues that men and boys face in our male-bashing culture. #MenToo breaks the quiet on what it means to be a male today. Bettina has been saying it like it is for decades. She writes about sex-deprived husbands, the politics of cleavage, fathers losing contact with children after divorce, false domestic violence allegations, men's soaring suicide rates, and the terrifying grip of feminism. Bettina sees #MeToo as the latest salvo in feminists' long crusade to crush male sexuality. She believes that most women are outraged by unverified claims being exploited to harm men's careers and are tired of small matters being blown up as sexism. Read her compelling reasons for why feminism has gone off the tracks, skewing laws, practises, and regulations to unjustly benefit women at the detriment of males. #MenToo gathered insights from Bettina's decades of ardent fighting for men and boys.

- **A book written by P. K. Pandey⁹** - It discusses the many facets of sexual harassment in India. This also highlights the fact that a woman's place and destiny in society are established not by law, but by inhumane, irrational, and discriminatory so-called cultures that have nothing to do with a guy of the same age, family, and situation.

⁸ **Abused men: Hidden side of domestic violence' (2009)**

⁹ P. K. Pandey: - Sexual Harassment and Law in India (LAP- Lambert Academic Publishing -16 January 2012)

- **A book written by S.L. Mukherjee¹⁰** - It contains a wealth of material on different types of rape, including as trespass, rape and murder, abduction and rape, sexual intercourse/exploitation, and sexual harassment. It also discusses legal recourse for victims of sexual harassment, the relevance of medical evidence in rape cases, rape-victim silence, rape sentence, rape-reliability of witnesses, rape or sexual enjoyment, rape or adultery comment, rape on minor, rape on criminal intimidation, rape-hesitation to report, rape-harassment and cruelty, rape and pregnancy, rape and murder-proof.
- **A book by Ratan Lal and Dhiraj Lal¹¹** - It covers a short overview of sexual harassment, rape, and similar incidents, as well as information about the laws pertaining to crimes and their punishment.
- **WHO report¹²**- This report was released under the headline 'Devastatingly pervasive: 1 in UNICEF- women worldwide are victims of violence'. This paper discusses the elements that are a primary risk factors for violence against women and identifies disparities as one of them.
- **Reports of the Law Commission and additional reports -**
 - Reports of the 172nd Law Commission
 - Report of the Justice Verma Committee
 - Report of the Tenth Law Commission
 - Report of the 146th Law Commission
- **The National Coalition Against Domestic Abuse (NCADV)¹³** study, USA, gives statistical data on spousal abuse in the United States, where one in every eighteen men has been killed by his female counterpart. Despite the fact that most of the material on 'male gender abuse' accessible comes from countries other than India. There is a wealth of information accessible to assist male victims of domestic violence in other countries, but little is known about the

¹⁰ Lawmann's Sexual Harassment and Sexual Offences by S.L. Mukherjee Edition 2022

¹¹ Ratan Lal & Dhiraj Lal – The Indian Penal Code(Lexis Nexis , 35th Edition 27 June 2017)

¹² The report, Global, regional and national estimates for intimate partner violence against women and global and regional estimates for non-partner sexual violence against women was developed by WHO and the UNDP UNFPA-UNICEF-WHO-World Bank Special Programme of Research, Development and Research Training in

¹³ National Coalition Against Domestic Violence(NCADV) report, USA

situation of male victims in India. India is profoundly prejudiced against 'male victims,' as shown by the paucity of literature on the subject. The patriarchal worldview of Indian lawmakers prevented them from seeing women as perpetrators of domestic abuse. There are several laws in place to address female gender abuse, but few address the situation of males. An mistreated guy has no one to turn to for assistance. It is past time for India, like other nations, to consider drafting gender-inclusive legislation. .

1.6

PROBLEM STATEMENT:-

The researcher is attempting to assess the application of criminal law not just in favour of women, but also of males and transgender people. It is inexcusable that even today when women have equal rights as men, statutory laws privilege women over males. Men and transgender people should be regarded as gender victims, and legislation should be gender inclusive, with equal penalties for women and reparations for other genders.

1.7

The Importance of the Research Question

There has been little research on male victims of sexual assault and domestic abuse. scenarios, with the majority of them taking a theoretical approach. So far, they make up the basis of the available information on sexual assault and domestic abuse against males and transgenders. While most attention and assistance are focused on the predicament of female survivors, there are many males, boys, and transgender people.

The following is the key research question at the heart of this paper:

- 1 **What causes and consequences of sexual and domestic violence against males and transgender people?**
- 2 **Under what conditions are sexual assault and domestic violence against males and transgender people committed?**

- 3 **How is sexual assault and domestic violence against males and transgender people seen in the community, if at all?**
- 4 **What are the ramifications in the community for male and transgender survivors?**
- 5 **What is the significance of gender-neutral criminal laws?**

Before delving into the significance of this study issue, I want to emphasize that the thesis' emphasis on males is not meant to cast doubt on or divert attention away from female survivors, who make up the majority of sexual assault survivors.

Work on female survivors must continue in order to meet their needs and diminish the prevalence of sexual assault. However, for a variety of reasons, the men's side should also be included in this work. First, gender programmes primarily target women, disregarding males and their issues to some degree. Male and transgender survivors have mostly gone unnoticed, and their therapeutic requirements have therefore gone unmet. Second, the failure to recognise male and transgender sexual and domestic abuse, as well as the following failure to treat male and transgender survivors, may contribute to the continuation of violence.

Finally, from a scholarly standpoint, the subject of sexual assault against males demands consideration. Failure to integrate the perspectives of males and transgender people in the response to sexual assault implies that the complex subject of sexual violence is only partly explained and understood.

1.8

HYPOTHESIS

It is often assumed that since India is a male-dominated nation, women are the victimised gender. Though recent trends show that women are the 'perpetrators' and men are being mistreated by them, particularly by utilising sections 498-A, 376, and 377 of the Indian Penal Code, 1860 to frame men on false charges of rape, dowry harassment, and cruelty. Men are

frequently the silent victims' of harassment that is more psychological than physical. In addition, Indian laws do not address sexual and domestic abuse against males and transgender people.

This study paper seeks to investigate the situation of males and transgenders as victims of gender biased laws that favour women over men, as well as the necessity to adopt gender-neutral legislation.

1.9

METHODOLOGY OF RESEARCH -

The researcher used a 'Doctrinal' technique. This article includes an in-depth examination of journals, research papers, and case studies, as well as an examination of surveys and personal interviews. Several Supreme Court and High Court decisions on this subject have also been rendered and adopted.

CHAPTER - II

SEXUAL VIOLENCE – UNDERSTANDING ITS MEANING , NATURE AND SCOPE

2.1 TERMINOLOGY: SEXUAL VIOLENCE

Rape, sexual slavery, coerced prostitution, forced pregnancy, and forced sterilization are all considered crimes against humanity under the Rome Statute of the International Criminal Court (ICC) (Art. 7(1)(g))¹⁴.

- Sexual violence is defined as "an act of a sexual nature against one or more persons, or causing such person or persons to engage in an act of a sexual nature by force, or by the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, against such person or persons or another person, or by taking advantage of a coercive situation." Sexual violence encompasses not just efforts to acquire a sexual act, but also actions aimed towards a person's sexuality or coerced trafficking for sexual purposes (Russell et al. 2011:1).
- Title VII of the Civil Rights Act of 1964 defines sexual harassment as "unwanted sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature that either directly or indirectly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment."¹⁵ This law governs the relationship between employees and employers in the United States.

2.1.1 Rape

Rape meant the ultimate defeat and dominance of the opponent in ancient warfare. It was formerly thought that a sexually penetrated man loses his masculinity and consequently his capacity to fight (Hardy 2002:20). The International Criminal Court (ICC) defines rape as "*the*

¹⁴ Rome Statute of the International Criminal Court (ICC), Art. 7(1)(g)

¹⁵ EEOC-NVTA-0000-2 Title VII of the Civil Rights Act of 1964

invasion of the person's body by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body" (Article 7(1)(g)-1)).¹⁶

It should be noted that this definition is gender-agnostic in international law. While many national and international legal definitions of rape often only mentioned the vagina as a genital opening that can be penetrated, excluding men and boys as potential victims, these definitions have gradually changed and taken on gender-neutral forms (Adler 2000:125). It is also worth noting that rape may be committed with any item, which includes the potential of female rapists. While rape may occur in a variety of settings, it is most common in imprisonment or during (forced) recruitment, when the perpetrators are often the victims.

Forces and victims are therefore susceptible and reliant on offenders (Stemple 2009:611). Rape may take several forms, including being forced to perform oral sex on guards or other inmates/abductees, being made to masturbate, being raped anally by the offender, who may also use objects⁵, or being forced to rape other prisoners anally (Sivakumaran 2007:264). Unlike anal penetration by the penis, which leaves no visible physical evidence, the use of items increases the risk of wounds and scarring (Peel 2004:66). Sexual violence against males is generally more cruel and sadistic than sexual violence against women and occurs in isolation (Lynn King and Greening 2007:1056; Peel 2004:61).

2.1.2 Sexual Violence as a means of torture

Rape is often used as part of a larger torture scheme. Torture, according to Hardy (2002:21), is used to control an individual or a larger population. Rape may be employed to attain this purpose in this situation.

¹⁶ Elements of Crimes, Art. 7(1)(g)-6

2.1.3

Sterilization via coercion and genital violence

Sexual violence against males, particularly castration by cutting off the victims' penises, has historically been common in numerous battles. Warriors in Ancient Persia stacked their opponents' penises high on platters to indicate victory. Removing the penis or testicles represented feminization and male disempowerment (Bringedal Houge 2008b:65). Captured men and boys in Mesoamerica became "body servants," or sex slaves, for the warriors (DelZotto & Jones 2002:2).

2.2 **DIVING DEEP INTO THE HISTORY OF SEXUAL VIOLENCE**

2.2.1 Early and Ancient History of Sexual Abuse and Harassment:

For much of history, sexual harassment and abuse--particularly rape--were considered a deplorable treatment of a man's property (the parent or husband), rather than a crime against women. The bulk of the punishments were severe and showed contempt for the victim's feelings and suffering. While different cultures regard and punish rape in somewhat different ways, they all have one characteristic in common. However, both the concept and punishment for rape have developed throughout time.

- According to the **Hammurabi Code**:

If a virgin was raped, she was automatically considered innocent, and the perpetrator was executed. If a married woman was raped, it was considered adultery, and both the perpetrator and the victim were held responsible.¹⁷

¹⁷ Gornick, Janet C., and David C. Meyer. "Changing Political Opportunity: The Anti-Rape Movement and Public Policy." Cambridge

- **The Ancient Assyrians:**

According to the "an eye for an eye" theory, the father of a raped virgin may rape the rapist's wife as retribution (Brownmiller, 1975).

- **Hebrews:**

The punishment for rape was stoning. If a virgin was raped inside the city gates (where she might have called for aid), both she and the rapist were stoned. If she resided outside the city, she was forced to marry her rapist, and he was forced to pay her father's bridal price.

If the virgin was already married, the rapist was stoned, and the girl was sold into marriage at a low price. Any married woman who was raped was stoned with her rapist for adultery, and her husband was not permitted to rescue her.

- **Greeks from antiquity:**

Considered male and female rape, and punished the offence more gently, mostly via fines.

- **Celtic law (pre-British legal system)**

Rape was not only recognised as a crime against a woman punishable by fines, but two types of rape were identified as well: forced rape (against the woman's will) and rape when the woman was incapable of consent (due to intoxication or mental illness)¹⁸. There were some exceptions: the lady had to shout for help if possible and promptly report the rape.

- **Rome's Law:**

Rape was previously thought to be a violent property crime ("Raptus") involving the abduction of a girl under the protection of a male, although it did not necessarily include sex.

Emperor Constantine made raptus a deadly offence in the fourth century A.D. The woman would suffer this penalty if she cooperated to the abduction.

¹⁸ History.com Staff. "How Sexual Assault Has Been Portrayed-or Erased-Throughout History." A&E Television Network

Raptus was eventually defined as forced sex or coercive abduction. In the sixth century, Justinian modified the law of raptus, making it a sexual violation against a woman. Raptus of an unmarried woman, a widow, or a nun was therefore added to raptus of a married woman, which was essentially a crime against her husband. Prostitutes, on the other hand, were exempt.

2.2.6 Anglo-Saxon:

In the 10th century, several degrees of sexual assault were established, with accompanying punishments. Death and castration, as well as castration of the rapist's male animals (horse, dog, etc.), were the most severe penalties for forced intercourse. The victim was then given the rapist's possessions.

- **Prostitutes did not escape prosecution.**

However, in actuality, such severe punishment was reserved for persons of great birth who were guarded by powerful men. As a consequence, William the Conqueror reduced the worst penalty to castration and blindness.

In the 11th and 12th centuries, Canon law developed to see rape as a violent, sexual offence against a person rather than a property infringement. Rape is comprised of four elements: assault, abduction, intercourse, and lack of authorization. The subject was forced to scream, but no sign of significant resistance was required.¹⁹

Prostitutes were not permitted, and there was an exception for marital rape. Rapists were not permitted to marry their victims to prevent them from benefitting from their crime.

Although rape was considered a dreadful crime against a woman, it was hardly recognised as a criminal against the father.

¹⁹ [Stephanie D. Roger](#) *Rape Law "Early History of rape By B.J. Cling)*

2.2.3 The Twelfth Century

Female rape victims were given the right to file a civil lawsuit, which might lead to a jury trial. Bringing this lawsuit, on the other hand, was a tremendous burden for the victim, which included showing everyone the physical consequences of the rape shortly after. Furthermore, if the rapist denied the rape, the victim had to be examined by four females. If she was no longer a virgin. The rapist may offer explanations such as the victim having previously slept with him or her permission.

The Statutes of Westminster, passed at the end of the 13th century, fundamentally changed the law of rape. They specified that rape was a criminal that may be committed by any woman, virgin or married, including concubines and prostitutes. In addition, if the victim's family does not submit a claim against the rapist, the crown may prosecute. Rape was fundamentally characterised as a crime against the State, not only against the family (as a property crime).

Rape victims, on the other hand, were treated with suspicion: their reputations were scrutinised; they required third-party confirmation of their allegation; and they had to report the rape immediately; they had to cry for aid, and so on. Rape was defined as carnal knowledge of a woman 10 years or older, violently and against her will, in the American colonies in the 16th century (derived from English law). **This is still the case in the state of Georgia.

2.2.4 America before the Civil War

Rapes committed against enslaved women were not considered an assault. The House of Burgesses of Virginia established rules addressing children born of enslaved women where the father could be a white (free) man as early as 1662: "If the mother (whatever her racial background, whether Indian, Black, or mixed) is enslaved if the father (whatever his racial background, whether Indian, Black, or mixed) is a slave, the child is a slave—no matter who the father might be."²⁰

²⁰ A Reflection on the History of Sexual Assault Laws in the United States." *The Arkansas Journal of Social Change and Public Service*.

2.3 History of sexual violence in India

According to studies, rape is the fastest-growing crime in India, and rape of women and young girls has increased significantly in recent years. According to the National Crime Records Bureau of India (NCRB), the number of rape cases filed in India increased by 873.3 percent between 1971 and 2011 (The Times of India, Dec 27, 2012), but experts argue that the true number of rape cases is significantly higher than what is reported (Human Rights Watch, Dec 29, 2012).

2.4 THROWING LIGHT ON FEW EXPERIENCES OF MALE SURVIVORS OF SEXUAL HARASSMENT

- **Case of Vijay Nair Sexual Harassment²¹**

In 2017, an article published on Huffington Post recounted a disturbing case of cyberstalking experienced by Vijay Nair, an entrepreneur and the founder of Only Much Louder (OML), based in Mumbai. This widely-shared article detailed the distressing events that Nair endured over several months. It all began when an anonymous individual posted a sexually explicit tweet on Nair's Twitter profile. Subsequently, the cyberstalker sent numerous sexually explicit messages to Nair via WhatsApp and email, some of which were also forwarded to Nair's friends and acquaintances. After extensive investigation, Nair eventually uncovered the identity of his stalker and discovered that the perpetrator was a woman he knew. This incident of cyberstalking involving Nair serves as an example that highlights the fact that men can also be victims of sexual harassment by women, emphasizing that such cases are not isolated incidents..

- **In 1995, the EEOC brought the first complaint involving the abuse of a man at work when a woman manager assaulted a male shop manager, leading to his dismissal.²²**

²¹ Vijay Nair sexual harassment case: Rising incidents against men emphasise need for gender-neutral laws in India : www.firstpost.com : May 17, 2017

²² <https://www.nbcnews.com/id/wbna19536167>

In 1995, a significant event took place in the field of workplace sexual harassment when the Equal Employment Opportunity Commission (EEOC) filed its first lawsuit regarding the sexual harassment of a man. The case involved a male shop manager who was subjected to sexual harassment by his female supervisor, ultimately leading to his termination.

According to the EEOC, the supervisor engaged in inappropriate behavior such as caressing the manager's shoulders and neck, as well as pinching his buttocks. These actions constituted clear instances of sexual harassment in the workplace.

Subsequently, the matter went to trial in Tampa, where the male manager sought justice for the harassment he endured. Ultimately, the court ruled in his favor, acknowledging the severity of the misconduct he experienced. As a result, the manager was awarded \$237,000 in damages as compensation for the harm caused by the sexual harassment.

This lawsuit and its outcome marked a significant milestone in addressing workplace sexual harassment, highlighting that such misconduct can occur irrespective of gender, with men also being victims. It emphasized the importance of creating safe and respectful work environments for all employees, regardless of their gender.

The male manager was awarded \$237,000 in damages when the matter went to trial in Tampa.

- **The case of Britney Spears**²³

Possibly the most high-profile sexual harassment case filed against a woman was that against Britney Spears, who was sued by her former bodyguard Fernando Flores for sexually harassing him. Flores claimed that she had made unwanted sexual advances to him, as well as exposing her privates in front of him on numerous occasions. He recounted one occasion when he was requested to enter the pop star's bedroom. 'So I go in, and I'm kind of looking to see who' I said, "Do you need anything?" She says, "Give me two bottles of 7Up." As I turned to leave, she mumbled, "What are you, an impotent? Britney and Flores came to an out-of-court settlement.

²³ www.indiatimes.com/news/india/these-cases-highlight-the-pathetic-state-of-male-sexual-harassment-laws

- **James Gist case**²⁴

A Texas man received \$576,000. James Gist, 51, sued the county for sexual harassment by ex-Constable Pam Matranga from May to October 2011. Matranga reportedly harassed Gist by touching his breasts, pulling her shirt over his head, and pretending to lap dance.

" The idea that you can get away with [sexualharassment] just because you're a woman was roundly discredited." Gist's attorney, Anthony Gryphon, said.

2.5

WHO ARE TRANSGENDERS?

Transgender people (including non-binary and third-gender people) have existed in cultures around the world since ancient times, but the modern terms and meanings of "transgender", "gender", "gender identity", and "gender role" did not emerge until the 1950s and 1960s.²⁵ As a result, opinions differ on how to categorise historical accounts of gender-variant people and identities²⁶.

Sumerian and Akkadian texts from 4,500 years ago document priests known as gala who may have been transgender. In Ancient Greece, Phrygia, and Rome, there were galli priests that some scholars believe to have been trans women. Roman emperor Elagabalus (d. 222 AD) preferred to be called a lady (rather than a lord) and sought sex reassignment surgery, and in the modern day has been seen as a trans figure. Hijras on the Indian subcontinent and kathoeyes in Thailand have formed trans-feminine third gender social and spiritual communities since ancient times, with their presence documented for thousands of years in texts which also mention trans male figures. Today, at least half a million hijras live in India and another half million in Bangladesh, legally recognized as a third gender, and many trans people are accepted in Thailand. In Arabia, khanith today (like earlier mukhannathun) fulfill a

²⁴ www.ibtimes.com/texas-man-wins-sexual-harassment-case-against-female-boss-jury-awards-james-gist-567k-pam-matranga

²⁵ Oliven, John F. (1965). *Sexual Hygiene and Pathology: A Manual for the Physician and the Professions*. Lippincott.

²⁶ [Guide on the Rights of Transgender Persons in India - Nyaaya](#)

third gender role attested since the AD 600s. In Africa, many societies have traditional roles for trans women and trans men, some of which survive in the modern era. In the Americas prior to European colonization, as well as in some contemporary North American Indigenous cultures, there are social and ceremonial roles for third gender people, or those whose gender expression transforms, such as the Navajo *nádleehi* or the Zuni *lhamana*.

However, the term transgender did not exist until 1965, when it was coined by Columbia University psychiatrist John F. Oliven in his 1965 reference work *Sexual Hygiene and Pathology*;^[1] the timeline includes events and personalities that may be viewed as transgender in the broadest sense, including third gender and other gender-variant behaviour, as well as ancient or modern precursors from the historical record.

The Transgender Persons (Protection of Rights) Act, 2019, Section 2(k), defines "transgender person" as a person whose gender does not match the gender assigned to that person at birth, and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer, and person with socio-cultural identities such as *kinner*, *hijra*.²⁷

2.5.1 Origin Stories

Hijras find a connection with a particular story of Shiva the ascetic that is part of a larger Hindu creation story. In this story, after emerging from being underwater for thousands of years, Shiva discovers (much to his dismay) that the entire universe has already been created. After this realization he breaks off his *linga* (penis) and throws it into the earth²⁸; in doing so he claims that it no longer has a use. Serena Nanda in her groundbreaking book *Neither Man Nor Woman* argues that this story specifically is quote “consistent with the paradox of creative asceticism.. it is the severed phallus that is the embodiment of *tapas* and is associated with *Siva*” end quote (Nanda, 1994). It is through this story of Shiva that Hijras connect their lives with themes of creative asceticism and procreative power. Arjun-Hijras connect with stories of Arjun, hero of the *Mahabharata*, in one of his stories he disguises himself as a eunuch for

²⁷ Section 2(k) of The Transgender Persons (Protection of Rights) Act, 2019

²⁸ The Role of Hinduism in the Construction of Hijra Identity in Modern Hindu India: invocationsiu.wordpress.com

one year. He teaches people to sing and dance, dresses like a woman, and grows out his hair. In this story Arjun acted and lived in ways that modern Hijras do. These disguises have been argued to provide textual legitimation to some of the lifestyle choices of Hijras.²⁹

- **Ardhanarisvara** — The biological composition of this god offers mythical credence to the often confusing bodies of Hijras. Ardhanarisvara is a depiction of both Shiva and his spouse, Parvati, and is divided half way down the centre, representing half a female and half a man.³⁰
- **Liberation** - Hijras have an incredibly valuable power in Hindu India; one that is so deeply connected to ideas of good livelihood that people pay Hijras to bless their families or, quite oppositely, pay them to leave out of fear of being cursed. Hijras are thought to be able to bless families with fertility that produces male children, as well as marriages so that those marriages can go on to produce many children.

2.5.2 Long History Of Violence Against Transgender People

Violence against transgender people includes emotional, physical, sexual, or verbal violence. The term has also been applied to hate speech directed at transgender people as well as depictions of transgender people in the media that reinforce negative stereotypes about them. Trans and non-binary gender adolescents can experience bashing in the form of bullying and harassment.³¹

²⁹ **Virata Parva : Mahabharat**

³⁰ Gopal, Madan (1990). K.S. Gautam (ed.). *India through the ages*. Publication Division, Ministry of Information and Broadcasting, Government of India.

³¹ Reisner, Sari L.; Greytak, Emily A.; Parsons, Jeffrey T.; Ybarra, Michele L. (24 March 2015). "[Gender Minority Social Stress in Adolescence: Disparities in Adolescent Bullying and Substance Use by Gender Identity](#)"

CHAPTER – III

DOMESTIC VIOLENCE: WHAT IT IS AND HOW IT BEGAN

3.1 VIOLENCE AND ITS MEANING

The word "violence" has a negative connotation when used to describe actions that are intended to harm another person. Although 'physical assault' is how 'violence' is defined in Black's Law Dictionary, shifting paradigms in social construction has given rise to mental violence,' also known as psychological trauma.

Using physical force with the intent to injure another person is an act of violence. When violence occurs, it may cause either bodily or mental harm. Aggression is a broader category of antagonistic activity that may take many forms, including physical, verbal, and passive aggression.³²

As a kind of human conduct, violence is surprisingly widespread. Even though aggressive conduct may occur at any age, it is more common among teenagers and young adults. Children are particularly vulnerable to the detrimental impacts of seeing or experiencing violence. Thankfully, there have been effective efforts to reduce and prevent violence.

3.2 VARIOUS AXIS OF VIOLENCE

Many different types of violence exist. Homicide (the intentional killing of another human being, though justifiable under certain circumstances), assault (the intentional physical attack on another), robbery (the unlawful taking of property from another), and rape (the unlawful sexual intercourse with another) are the four most common types of violent crimes. kid sexual abuse (having sexual relations with a kid) and domestic violence (violence between family members, most often couples), for example, fall beyond the scope of these categories but are nevertheless kinds of violence.

³² www.britannica.com/topic/human-behavior

The reasons for an act of violence may also be classified. Reactive violence, also known as emotional or interpersonal violence, often entails the outward manifestation of rage, defined here as the irrational and sometimes irrational impulse to inflict harm on another person. Instrumental, or proactive, violence is more premeditated and often done with the expectation of gain. According to research conducted by American psychologist Kenneth Dodge, the autonomic nervous system arousal levels of people committing acts of reactive violence (i.e., increased heart rate, breathing rate, and sweating) are significantly higher than those of people committing acts of proactive aggression.

Differentiating between predatory and emotional violence is another way to classify aggressive behaviours. Predatory violence consists of premeditated acts of hostility. Affective violence is less deliberate and more of a knee-jerk reaction. Other forms of violence, such as irritable violence (prompted by irritation) and territorial violence (prompted by a sense of threat to one's territory or personal space), have also been proposed.

3.3 The Broader Roots of Violence

Researchers are in agreement on at least one thing, and that is that there is no one cause of violence. Instead, violence stems from a complex interplay of influences, some of which are inherent to the violent person's social or cultural milieu and others of which are more immediate in nature.³³ Genetic predisposition, neurochemical abnormalities (such as high testosterone levels), personality characteristics (such as a lack of empathy for others), information-processing deficits (such as the tendency to view others' actions as hostile), and the experience of abuse or neglect as a child have all been investigated as potential contributors to violent behaviour.³⁴

Frustration, exposure to violent media, domestic or community violence, and a predisposition to interpret the behaviors of others as hostile even when they aren't all contribute to this mentality. A Psychological Insight into the Causes of Violence The most common motivations for violence can be viewed as inappropriate attempts to handle emotions, and certain situations, such as drinking, insults, and other provocations, increase the risk of aggression. When

³³ [Human behavior | Definition, Theories, Characteristics, Examples, Types, & Facts | Britannica](#)

³⁴ [Environment Definition & Meaning - Merriam-Webster](#)

someone is angry, frustrated, or depressed, they may act violently to get those emotions out. On other occasions, people resort to violence as a means of manipulation to achieve their goals. Aggression may also be employed as a weapon of retribution, a way to make amends after being wronged. Finally, persons who are exposed to violence early in life may develop aggressive tendencies themselves. As a result, violent behaviour starts to be seen as the norm. People who resort to violence often fail to consider less harmful ways of expressing themselves and dealing with their feelings.

3.4 Domestic Violence: Definition and Explanation

Domestic violence is a global epidemic that touches every part of society. Family violence is a serious issue that has to be addressed immediately. Constant issues at home have the potential to tear families apart. It's one of the biggest issues in India and the rest of the globe. Women are disproportionately affected by physical, economic, and psychological forms of abuse perpetrated by their husbands, partners, and family members.³⁵

When one person in a relationship uses force or threats to dominate or frighten another, it is called domestic violence. It's common to think of this as happening just between couples or in other romantic partnerships, but it truly encompasses any kind of family dynamic or cohabitation.

Abuse in the home may take many forms, including those described above as well as economic or physical threats. These are acts committed with the intent to cause fear, terror, humiliation, manipulation, coercion, blame, or physical harm to another person. The following definition of domestic violence might help shed light on this topic.

3.5 HISTORY OF DOMESTIC VIOLENCE

Domestic violence was not a problem during the **Vedic Era**. When compared to other times in history, Vedicera was the best for women's rights, autonomy, and social standing. During this time period, women were fully integrated into all aspects of society, just as males were. They

³⁵ [Domestic Violence - Definition, Examples, Cases, Laws \(legaldictionary.net\)](https://www.legaldictionary.net/definition-domestic-violence/)

were given the same opportunities as males to study the Vedas in Gurukuls. Girls were not restricted in their choice of husbands by the practice of purdah at this time. The name "Swayamvara" was given to this practice.

A woman in the Rig Veda was treated like a queen by her husband. During ancient times, most individuals observed monogamy whereas polygamy was almost exclusively a habit of the elite. Even among royal and wealthy households, the dowry system was commonplace via the giving of movable presents rather than the making of a formal demand. Widows might remarry or try "Niyoga" to have a son since the practise of "Sati" was not common in this community. However, there were still communities that excluded widows from celebrations and festivities because of the belief that they brought bad luck. Dharma, prosperity, and happiness all have their origins in the woman, according to the Mahabharata. No male was permitted to attend religious services outside of the presence of his wife.

Therefore, in the past, both sexes would join forces to carry out rituals and celebrations. This freedom of mobility included leaving the married home to participate in sabhas, conferences of learned individuals, fairs, and festivals. Divorce was unheard of in that era, with the exception of a few cases of traditional divorce among lower castes.

The "Stridhan" of a woman was the exclusive owner of her assets. Thus, in the Vedic period, a wife was considered a friend and companion as well as a co-participant in her husband's triumphs and tragedies. She was given the respect due a person and had a place of prominence in the community³⁶.

3.6 AFTER THE VEDIC ERA:

Between 1500 B.C.E. and 500 A.D., the post-Vedic era, "Manu" progressively diminished a woman's honourable standing and imposed different limits on her rights and privileges. Women were expected to do only the most menial tasks outside the home and have children. The habit of monogamy declined, and polygamy became the norm; the only notable exception being Draupadi's polyandry in the Mahabharata.

³⁶ Foundation, Thomson Reuters. "Factbox: Which are the world's 10 most dangerous countries for women?". www.reuters.com

It is said in Manu Smriti that "there is a vital structural difference between a man and a woman, and a woman can not possess an independent status." "A woman has no right to her own means of support; her father is responsible for her safety in her young adulthood, her husband in her middle years, and her son in her old age."

During this time, males had followed Manu's advised methods for mercilessly exploiting women by keeping their wives in subjection. This is why, according to Manu, "Marriage establishes the supremacy of the husband over the life of a woman."

- 'Yajnavalkya,' another Smritikar, chimed in, saying, 'women should obey the teachings of their husbands, it is their greatest responsibility. Widow remarriage was also forbidden at the period, as shown by the "Manu Code" and several stories of widowhood in the Ramayana and Mahabharata. Manu Smriti and other Dharmashastras should be credited for sowing the seeds of domestic violence during this time period.'

The marriage age of females was lowered, and their education suffered, eventually leading to a complete ban on schooling for girls. However, women of the upper class were given opportunities to learn about the military, government, and the arts. Of course, this was the rare case. Girls as young as 9 or 10 were legally allowed to be married. The wife's standing has been falling inside the marriage. Women were routinely marrying as children without receiving any formal education, and as a result, they were viewed as property by their husbands. Manu said, "A woman need not execute any Yajna or ritual or undergo fast for her salvation. She will obtain better life by service to her husband, even though he is immoral, a debauch, and lacks excellent attributes."

- The caste system was widely practised, with people classified into four Varnas :
 - 1) Brahman
 - 2) Kshatriya
 - 3) Vaishya
 - 4) Shudra.

Various Smritikars placed various restrictions on a woman and limited her freedom.³⁷

³⁷ National Family Health Survey 3 – Domestic Violence pp. 522–524

Because her identity is intertwined with that of her husband, a wife has no independent claim to the assets acquired during marriage. Upon her husband's death, she is entitled to only a fraction of his estate, and she has no say over her father's property.

3.7 WOMEN IN THE MIDDLE AGES

During this time, social evils such as Sati Pratha, child marriage, female infanticide, and the practice of dowry became deeply rooted in many parts of India, further degrading the position of women. Polygamy and sex marriage were also common.

It was during the Muslim era that women's status deteriorated, as the "Purdah system" was supported by the conquering Muslims. This had a profound effect on many aspects of society, not just the home.

Some women in the culture were educated and gifted outliers, but for the most part women lost their right to an education and were restricted to worshipping via priests and being excluded from men's activities.³⁸

Widows were not allowed to get married for a second time, so they led a very wretched life. Child marriage became a religious obligation, so child widows were unavoidable. This dark age was a "darkage" for all women.

DURING THE BRITISH ERA:

In that time, the wife's position in the household was in a sorry state. Domestic violence was found in most of the family in the name of different customs. Early marriage, enforced widowhood, female infanticide, Satipratha, Devdasi system, Pardha system, Dowry system, Caste system, Polygamy etc. were prevalent in the society. Inter Caste marriages and widow remarriages were strictly prohibited and Hindu society was divided into four varnas (1) Brahman, (2) Kshatriya, (3) Vaishya, (4) Sudra.

³⁸ Bedi, Rahul. "Indian Dowry Deaths on the Rise." The Telegraph [New Delhi] 27 February 2012.

But during the British regime due to education and Western impact on the sociocultural life of India, the society began to change for the better. The attitude, behaviour lifestyle of the people changed drastically. Some prominent persons of that era like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, M.G. Ranade, Mahatma Gandhi, Lokmanya Tilak, Rishi Aurobindo, Dada Bhai Naoroji, Swami Vivekananda etc who had received English education began to think about the injustice on the women. The issues which attracted the attention of the eighteenth-nineteenth century social reformers were Sati Pratha, ill-treatment of widows, the ban on widow remarriage, polygamy, child marriage, denial of property right, temple prostitution, custom of purdah and education of women etc .

The reformers thought that women should be educated equally like men and every opportunity should be given to develop their womanhood. They can take proper share in the various activities which were the monopoly of men. So women were given English education. Christian Missionaries in Bombay started the first school for girls in 1824 and Ishwar Chandra Vidyasagar started at Lucknow another school for girls in 1849.

As our society was very conservative, the progress was very slow at the beginning. During this period there was Nationalist or freedom movements which affected the position of women. The nationalist movement not only drew a large number of women to political activity but also generated strength and confidence among women which helped them to organise and fight for their cause. The formation of the All India women's conference in 1927 was a crucial event in women's march towards equality. Many Laws were enacted which tried to eradicate certain social evils. The cruel practice of "Satidaha" was abolished by an ordinance on December 4, 1829 by Lord William Bentinck, the then Governor General of India and he had the unflinching support of the enlightened Indian like Raja Rammohan Roy, one of the most worthy sons that India has ever produced. Sati Pratha abolition Act 1829 was enacted to curb this brutal practice.³⁹

Child marriage was prohibited by the Child Marriage Restraint Act of 1929, and Pandit Ishwar Chandra Vidyasagar, another great social reformer, instituted the practice of widow remarriage.

³⁹ India, Parliament in the Fifty-sixth Year of the Republic of India, Protection of Women from Domestic Violence Act, 2005. Act. No. 43 OF 2005.

In conclusion, under British rule, a consciousness was developed for the elimination of social ills, while women's mobility was improved via education and political engagement, and various legislative enactments were established to remedy women's unequal situation.

THE PERIOD AFTER INDEPENDENCE:

(a) The most important event after the Independence of India has been the drafting of the Constitution of this Country. The Constitution of India embodied the principles of equality liberty and social justice. The framers of Constitutionions were conscious of the discrimination and unequal treatment relating to the fairer sex from time immemorial. Therefore, they included certain general as well as specific provisions in Constitution under Part III as fundamental rights and part IV as directive Principles of State Policy for the uplift of the status of Women and to provide opportunities for the exercise of Women's human rights and claims. The articles under part III of the Constitution of India relating to Fundamental rights which try to uplift the status of women are Article 14-17 and Art. 19-25 etc. and the articles under Part IV relating to Directive Principles of State Policy which are explicitly intended to improve the status of women are Art 39, 39A, 42 etc. Article . 51 A imposes certain fundamental duties on every citizen of India in which Article 51A(e) is related to women.

(b) Pt. Jawaharlal Nehru proposed the "Hindu Code Bill," and as a result, four laws—the Hindu Marriage Act of 1955, the Hindu Succession Act of 1956, the Hindu Adoption and Maintenance Act of 1956, and the Hindu Minority and Guardianship Act of 1956—were ratified by Parliament and signed into law by President Dr. Rajendra Prasad. These laws were intended to ensure that Hindu women enjoyed the same rights and responsibilities in the home and in society.⁴⁰

Punishment for harassment or cruelty by husband and in-laws (Section 498A), dowry deaths (Section 304B), abetment to commit suicide (Section 306), Punishment for Bigamy (Section 494 and 495 IPC, etc.), etc. are all examples of provisions in the Indian-Penal Code 1973 that aim to reduce crime against married women.

⁴⁰ Bedi, Rahul. "Indian Dowry Deaths on the Rise." The Telegraph [New Delhi] 27

When a married woman dies within seven years of her marriage under suspicious circumstances due to cruelty or harassment by the husband and in-laws in connection with demand for dowry, the onus of proof is placed on the accused to show that the death was due to natural causes, per Sections 113A and 113B of the Indian Evidence Act 1872.

- The definition of cruelty is expanded upon as follows in the section:

a) Any intentional behaviour that poses a substantial risk of death or serious bodily harm to the woman (either physically or psychologically).

Only the wife, daughter-in-law, or relative of the woman can file a 498a petition, and only if the harassment falls under subpart (b) above and is intended to coerce the woman or any person related to her into meeting any unlawful demand for any property or valuable security. The majority of Sec 498A complaints are found to be fake (as confirmed by the Supreme Court and High Courts of India on several occasions), and are instead efforts at extortion by the wife (or her close relatives) in the midst of a troubled marriage. A 498a complaint is often followed by an extortionate demand for a large sum of money to "settle the case."

This provision is cognizable (allowing for arrests to be made without prior investigation or a warrant) and non-compoundable (making it impossible to retract a complaint).

- Section 498A: Serious Issues:

Without a firm grounding in the evolution of India's penal code, any evaluation of Section 498A would be lacking. Reform of the criminal justice system was spurred by the huge numbers of married women were dying from abuse connected to dowries. Therefore, the first call was for legislation that would specifically prohibit violence stemming from dowries. This led to the introduction of Section 498A of the Indian Penal Code in 1983, Section 304B of the Indian Criminal Evidence Act of 1986, and corresponding revisions to the Indian Evidence Act of 1872. Since Sec 304B addressed the specific crime of dowry death and Sec 498A attempted to address the systemic violence against married for dowry, it is widely considered that its introduction was part of a coordinated plot.

- **The 2005 Domestic Violence Act**

In an effort to safeguard its female citizens, the Indian Parliament passed the Protection of Women from Domestic Violence Act 2005 in 2005. The Indian government and the Ministry of Women and Child Development put it into effect on October 26, 2006. First, of its kind in Indian law, the Act defines "domestic violence" to include not just physical abuse but also emotional, verbal, sexual, and psychological abuse.⁴¹ The Act is a civil law intended primarily for protection orders rather than criminal enforcement.

- The Act defines the victim as "*any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to domestic violence by the respondent.*"⁴² This law protects not only women in husband-wife relationships but also women living in the same home with people with whom they are in a domestic relationship from violence. This Act was the first piece of legislation to formally recognise and protect domestic violence in all forms, including marriage (husband-wife, daughter-in-law with father-in-law/mother-in-law, etc.), blood (father-daughter, sister-brother), adoption (adopted daughter-father), and the very nature of marriage (live-in relationships, legally invalid marriages).
- According to the Act's definition of domestic violence found in Section 3, "*any act, omission, action, or behaviour of the responder shall constitute domestic violence if it:*

involves inflicting physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse; or tries to hurt, injure, jeopardise, or imperil the health, safety, life, limb, or well-being, whether mental or physical, of the injured person.

intimidates, threatens, or causes bodily damage to the victim in order to force her to pay a dowry or other kind of property or valued security;

effects described in (a) or (b) above have the effect of endangering the aggrieved person or anybody associated to her; or

⁴¹ Chandra, Bipan; Mukherjee, Aditya; Mukherjee, Mridula (2008).

⁴² Section 2(a) "The Protection of Women From Domestic Violence Act, 2005"

harms the injured individual in any way, whether physically or psychologically. "

All types of abuse, including physical, verbal, sexual, and financial, fall within the Act's definition of "violence."⁴³

⁴³ Section 3 , "The Protection of Women From Domestic Violence Act, 2005"

CHAPTER IV.

CATEGORIZATION OF DOMESTIC VIOLENCE

4.1 INTRODUCTION

When the general populace thinks of violent behaviour at home, they usually think of an attack that results in evident wounds to the person in question. This is just a kind of abuse. There are several types of oppressive activity, each with its own shocking effects. The lethality linked with real abuse may put the victim in danger, but the long-term loss of personality related to many sorts of abuse is tremendous and cannot be reduced⁴⁴.

This category includes cruelty to women, orientation-based cruelty to women in conflict settings, violent behaviours at home against women (including honour murders), and transgender cruelty. Associations, articles, events, books, and so forth that include orientation-based themes of cruelty to women are also relevant⁴⁵.

This session should highlight the brutality in which women are finally called into question. Instead, it should only include displays of viciousness if the orientation of fatalities is an essential factor, when they are chosen for savagery, when genuine violence is gendered, or when it is in any way written. matches the definition. viciousness depending on orientation

Domestic violence classification

- Cruelty: definition and evolving extent
- Sexual exploitation
- Emotional and psychological exploitation
- Physical abuse
- Financial exploitation

⁴⁴ Woodlock, Delanie (2017). "The Abuse of Technology in Domestic Violence and Stalking". *Violence Against Women*. **23** (5): 584–602. doi:10.1177/1077801216646277. ISSN 1077-8012.

⁴⁵ "WESNET Second National Survey on Technology abuse and domestic violence in Australia" (PDF). Archived (PDF) from the original on February 26, 2021. Retrieved March 4, 2022.

4.3 CRUELTY: MEANING AND CHANGING SCOPE

Cruelty is the delight in causing misery or the apathy in the face of another's suffering when there is an obvious solution. Sadism is also associated with this kind of behaviour or thought. Cruel methods of causing pain may include violence, although intentional violence is not required for an act to be cruel.⁴⁶

- Cruelty is defined in law as "*the infliction of physical or mental distress, especially when considered a determinant in granting a divorce.*"⁴⁷ According to Barozzo, there are four separate definitions of cruelty in criminal law. "The distinctions between these conceptions of cruelty are based on the types of agency, victimisation, causality, and values employed."⁴⁸
- The first is the agent-objective conception, which is "exemplified by [...] agency that goes above in degree and beyond in type the [suffering] allowed by applicable norms." According to this view, the victim was subjected to cruelty because of the "objective character of the act or treatment" she was subjected to. Cruelty is described in this context as an "inclination of the mind towards the side of harshness." Any punishment or other treatment that exceeds the realm of adequacy and wanders beyond potential is characterised as excessive, and hence cruel.
- The second is agent-subjective, in which "cruelty obtains only when the agent's deviant behaviour is accompanied by the fault of character consisting in deriving personal delight from causing and witnessing suffering". This conception is best understood under the assumption that punishment or other violence is a means to restore the offset in the cosmic order of the universe caused by wrongdoing. Anything that goes above and beyond what is required for this repair is harsh; peace and harmony are not balanced with severe punishment or violence—the scale of wrongdoing only leans to the other side. The Eighth Amendment to the United States Constitution, for example. Because the Constitution forbids cruel and unusual punishment, we must "inquire into a prison official's state of mind [...]" while finding that the agent is not taking pleasure in causing suffering and that the penalty does not exceed the offence.

⁴⁶ "[Definition of CRUEL](http://www.merriam-webster.com)". www.merriam-webster.com.

⁴⁷ *The American Heritage® Dictionary of the English Language*, Fourth Edition

⁴⁸ Barozzo, Paulo (2015). "[Cruelty in Criminal Law: Four Conceptions](https://ssrn.com/abstract=2663837)". *Crim. L. Bulletin*. **51** (5): 1025–1073. [SSRN 2663837](https://ssrn.com/abstract=2663837)

- The third idea is victim-subjective, in which the "element of cruelty rests in the victim's intense experience of suffering". Here, the victim's anguish or sense of degradation and humiliation is viewed specifically and distinctively. To recognise cruelty, we must look to our compassion rather than any normative criteria of fairness. Continuing with the punishment example, the state's motive is irrelevant in deciding whether a penalty is cruel. According to the legislation, "ill-treatment must achieve a minimum level of severity," which is decided by "all the circumstances of the case, such as the duration of the treatment, its physical or mental effects, and, in some cases, the victim's sex, age, and state of health, etc."⁴⁹.
- The fourth and final notion is the sum of all the preceding ones: victim-objective and agent-independent. This definition "refers to severe violations of the unconditional and inherent dignity of each and every individual, which command respect, recognition, and care." According to this definition, "cruelty occurs when a grave violation of human dignity that in normal circumstances would amount to cruelty is caused by individuals or by the operation of impersonal institutions, structures, or social processes, even if the victim is unaware of his predicament."

In a survey of 1000 married men aged 21-49 years in the provincial towns of Haryana, 52.4% of males in India encounter orientation-based brutality, according to a poll of 1000 married men aged 21-49 years in Haryana's provincial towns. 51.5% of guys have suffered some type of harassment or abuse at the hands of their spouse or close companions at some point in their lives. 10.5% of boys have been subjected to attitude-based violence in the last year as a result of their spouse or private partner. Personal abuse is the most prevalent type of abuse in the home against spouses or males, while physical abuse is the second most common form of abuse in the home against men.⁵⁰

- *IPV, or intimate partner violence*, may be committed by any partner, whether married or not. One of the major causes of IPV is a lack of education, working-class morals, one person earning more than another, and so on.⁵¹

⁴⁹ Barrozo, Paulo (2015). "[Cruelty in Criminal Law: Four Conceptions](#)". *Crim. L. Bulletin*. **51** (5): 1025–1073. [SSRN 2663837](#)

⁵⁰ National Women's Aid Federation Archived 2012-01-13 at the Wayback Machine.

⁵¹ WHO (March 7, 2013). "Child marriages: 39,000 every day". who.int. World Health Organization. Archived from the original on April 14, 2014. Retrieved April 11, 2014. Joint news release Every Woman Every Child/Girls Not Brides/PMNCH/United Nations Foundation/UNFPA/UNICEF/UN Women/WHO/World Vision/World YWCA/

- Men, in addition to women, face orientation-based brutality in India. Because most women have been abused, there is a widespread belief that aggressive behaviour at home is an unacceptable attitude. Because India is a male-dominated country, it might be difficult to comprehend that even boys can avoid violent behaviour at home.⁵²

When a woman is subjected to cruelty, she has several options, including filing a First Information Report under Section 498A of the Indian Penal Code, invoking the provisions of the Domestic Violence Act, seeking maintenance under Section 125 of the Indian Penal Code, demanding residence in a shared household, and even obtaining eviction orders under the provisions of the Domestic Violence Act.

4.2.1 However, until substantial bodily injury is performed to a man's body, he has little recourse when exposed to mistreatment. **The only option for a male is to sue for divorce on the grounds of cruelty.**

- In the matter of *Samar Ghosh versus Jaya Ghosh (2007)*⁵³(Supreme Court), a marital conflict between two IAS officials is at issue. The husband said that his wife took the choice to not have a child on her own and refused to allow him to express love to her daughter (from her previous marriage). She also exhibited little concern for his health, refusing to cook for him and asking him to leave her apartment, humiliating him, and refusing to live with him. The court determined that the wife's actions constituted to mental cruelty and upheld the trial court's decision to award the husband divorce.
- The case of *Narendra vs. K. Meena (2016)*⁵⁴ The Supreme Court ruled in that in Hindu tradition, a son is supposed to care for his parents in old age and that a wife should not attempt to compel him to leave them without a valid cause. In this scenario, the parents were nearly entirely supported by the son and had practically little independent income.

⁵² Dutton, Donald; Painter, S.L. (January 1, 1981). "Traumatic bonding: The development of emotional attachments in battered women and other relationships of intermittent abuse". *Victimology*. **6**: 139–155.

⁵³ (2007) 4 SCC 511

⁵⁴ (2016) 9 SCC 455

- In some situations, it has been determined that fraudulent criminal prosecution of a spouse by the other constitutes cruelty. In *Kalpna v. Surendra*⁵⁵, the woman filed a complaint against her husband and his family, and warrants were issued, requiring them to get court bail. However, these turned out to be false allegations. The Allahabad high court said that this was harsh.
- In *Shayamlata v. Suresh*⁵⁶, the woman filed allegations against her husband and in-laws under Cr.p.c. sections 107 and 151. However, the proceedings were later withdrawn for what reason? The Punjab and Haryana high court ruled that the wife's behaviour amounted to cruelty.
- Cruelty occurs when one spouse threatens the other with suicide in order to coerce the other to accomplish something. Thus, in *Dastane v. Dastane*⁵⁷, the Supreme Court ruled that the wife's threat to commit suicide constituted to cruelty.

4.3 SEXUAL ABUSE:

- Adult sexual abuse is defined as any touch or non-contact sexual movement that happens without permission or understanding, or with limited consent.⁵⁸
- Sabotage, for example, date snatching or forced kissing unsuitable behaviour obscene openness spying next preparation Involvement in entertainment without authorization.⁵⁹
- Picture-based sexual abuse (sometimes known as "retaliation"), which involves forcefully displaying pornography.

Sexual abuse may be defined as any sexual behaviour that causes a person to feel embarrassed, hesitant, or threatened, as well as believing that sexual abuse is taking place in return for anything - love, food, drugs, shelter, security, or currency.

⁵⁵ AIR 1985 All 253

⁵⁶ AIR 1986 P H 383

⁵⁷ AIR 1975 SC 1534

⁵⁸ Schechter, Daniel S.; Zygmunt, Annette; Coates, Susan W.; Davies, Mark; Trabka, Kimberly A.; McCaw, Jamie; Kolodji, Ann; Robinson, Joann L. (2007).

⁵⁹ Domestic violence in the Times: From civil unrest to spouse abuse". The New York Times. September 10, 2014.

- Vulnerable individuals are particularly vulnerable to sexual assault and maltreatment, which may occur for a variety of reasons, including:
- They are immobile and unable to move away from their victim; they find it difficult to tell what is falling on them; they require information and understanding of what is an inappropriate way to behave; they can accept that they are necessary for a consensual relationship; the victim has actually or verbally compromised with them; the victim may have separated them from their loved ones.⁶⁰

4.3.1 Institutional Abuse in Vulnerable Adults :

- Official abuse, also known as institutional abuse, refers to the abuse or neglect of vulnerable adults within an organisation or clear-minded setting. The term encompasses any form of abuse, such as not allowing adaptability with bedtime or not offering judgement at a given dinner, as well as actual misconduct and sexual abuse.
- According to a BBC investigation in 2016, there were more than 2,000 claims of sexual crimes committed in adult care homes for UK police powers between 2013 and 2015. During a similar period, the Care Quality Commission (CQC), which screens and manages care homes in England, was alerted to more than 6,000 "preservation concerns and precautions" in care homes that were unreasonable. Was switching from contacting just legitimate claimants.⁶¹
- It is difficult to recognise signals that a foundation or organisation may have persons who misrepresent those who get assistance. However, there are a few indicators to keep an eye out for:
 1. Adults who need help have a lack of flexibility and judgement.
 2. A shortage of personnel
 3. Employees are not fully prepared or are not appropriately controlled.

⁶⁰ The federalist papers: no. 43 The same subject continued (The powers conferred by the constitution further considered)". Yale Law School, Avalon Project, Documents in History, Law and Diplomacy. Archived from the original on March 26, 2016.

⁶¹ "Establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA". Directive No. 2012/29/EU of 25 October 2012. EUR-Lex

4. Adults are either willing to use the assistance or are exhausted.
5. regrettable care guidelines
6. Lack of personal clothing and property
7. A scarcity of acceptable approaches
8. Inadequate record-keeping and reporting
9. The absence of guests
10. They provide little pleasant, games, or educational activities.
11. Staff conduct impartial investigations on the circumstances of those seeking help.
12. Excessive opening when cleaning or using the loo
13. Personal thinking plans are lacking.⁶²

4.4 PSYCHOLOGICAL AND EMOTIONAL ABUSE:

- Psychological abuse is the same as mental abuse.
Experts in this sector do not agree on whether there is a major distinction between euphoric and psychotic abuse. Some investigations suggest that there are minor distinctions between the two. Because psychological abuse is more common, mental abuse is often seen as a sort of psychological abuse. Furthermore, mental abuse includes the use of verbal and social methods to manipulate one's attitude, such as "gaslighting," which is not precisely the same as other sorts of psychological abuse.
- Abuse manifests itself in a variety of forms. In any instance, even if there is no real wrongdoing, hate speech may be tremendously destructive to you and your children. Enthusiastic and psychotic abuse behaviours are mostly non-realistic ways used by the victim to dominate, isolate, or terrify you. Often, the victim will use it to undermine your self-esteem and confidence in order to build a mental dependency on him. Passionate and psychotic abuse are difficult to comprehend since the abuse is distributed via your usual support. Unlike genuine abuse, there are no limited occurrences or unambiguous anecdotal evidence to turn to.

⁶² Convention on preventing and combating violence against women and domestic violence (CETS No. 210)".
conventions.coe.int. Council of Europe.

- **Symptoms of euphoric and psychotic abuse include:**

Emotional and emotional abuse in your relationship might begin abruptly or gradually. Some victims seem to be nice partners at first and then begin misbehaving after the relationship is established. When this shift in demeanour happens, you may find yourself astonished, perplexed, and shockingly degraded.

Nonetheless, abuse is never your problem, even if the victim tells you so or feels that your family or spouse is to blame for enabling you to "allow" the violence. It might be difficult to determine if particular kinds of behaviour are really or psychologically damaging, especially if you grew up seeing abuse. Regardless, the way to react, as with any continuing abusive behaviour at home, is with a strategy to win and retain authority and order over you. Some signs that a partner is honestly and mentally repressive are :embarrassing you in front of others ;giving you an offensive name, such as "dumb," "horrible," or "worthless ";whipping in a startling manner;taking steps to hurt you, persons you care for, or pets;the victim is taking steps to hurt himself when he is angry with you;making statements such as, "If I can't have you, then no one can;"⁶³

- **Risk Of Self-Injury**

When your spouse habitually commits self-injury because you don't do what the victim thinks you should do or because you choose to leave the relationship, that is a sort of euphoric and psychotic abuse. .The victim is taking advantage of your feelings for him in order to dominate and control you. When your spouse makes these threats, you can defend yourself by doing the following:

Telling your partner that you care about him while maintaining your limits - in general, without doing anything that the victim claims you is necessary to "stop" self-injury;

If the victim does not have a feeling of control over their actions, they may self-harm; and remember that it is not your responsibility to "force" the victim to "injure themselves." For example, the victim may declare, "Assuming you truly love me, you will prevent me from

⁶³ Mirlees-Black, Catriona; Mayhew, Pat; Percy, Andrew (September 24, 1996). "The 1996 British Crime Survey England & Wales" (PDF). Home Office Statistical Bulletin

committing suicide," despite the fact that it is critical to regulate what often follows spirited abuse.⁶⁴

4.5 Punishment

- In an honest and psychologically destructive relationship, the victim will strive to break off every single emotional connection you have with others, therefore the ultimate struggler is the victim. The following are some symptoms of this sort of dissolution: You quit or stop visiting relatives or peers, which you regret;
- The want to experience what you're doing and be in continual contact;
- limiting your access to transit so that you are unable to leave the home;
- Jealous of time spent with relatives or peers, travelling to a location where you would "choose" not to see them anymore so that you do not have to face the victim's jealousy; and Assuming that you must get approval before doing anything or investing energy with other people.⁶⁵

4.6 Gaslighting:

Gaslighting is a kind of emotional and mental abuse that is often perpetrated by gently looking at someone. The term "gaslighting" refers to a kind of behaviour in which the victim purposely rejects performances or opportunities in such a manner that you believe they occurred. A victim will often take your emotions, words, and interactions against you and use them against you, making you to question your existence, doubt your own judgement and memory, and lead you to believe You may be "going off the deep end."

- Feeling befuddled, "crazy," and continuously second-guessing oneself;
- addressing on a regular basis, presuming you are "extremely fragile";
- Having difficulties narrowing down options;
- Frequent rationalisation of your partner's behaviour;

⁶⁴ UNODC (2010), "Introduction: justice system responses and victim protection · Preventive approaches · Responding to violence against women: the role of the police · Procedural law", in UNODC (ed.), Handbook on effective police responses to violence against women (PDF), Criminal Justice Handbook Series, Vienna, Austria: United Nations Office on Drugs and Crime, pp. 19, 37–86, ISBN 9789211302912, archived (PDF) from the original on May 28, 2015^ Marmot, Michael (January 21, 2015). "Why do some people still think domestic violence is justified

⁶⁵ Staudt, Kathleen; Robles Ortega, Rosalba (2010), "Surviving domestic violence in the Paso del Norte border region", in Staudt, Kathleen; Monárrez Fragoso, Julia E.;

- removing or retaining data from friends and relatives;
 - Avoid being deceived or having your reality twisted;
 - Feeling unable to change anything; and questioning if you are a "good enough" spouse.
 - After all, these types of behaviour are designed to control, isolate, or alarm you, and although they don't leave physical signs, they may cause trusting damage.
- Emotional and psychotic abuse has the following effects:

Extreme euphoric and psychotic usage may have both acute and long-term consequences. This form of abuse may have an impact on both your physical and mental health. You may suffer disorganisation, restlessness, embarrassment, guilt, continual sobbing, over-consistency, weakness, and the list goes on. You may stay in the relationship and try to cope with the victim or modify the victim's behaviour, often blaming yourself despite the fact that you are not to fault.⁶⁶

If you are subjected to frequent and severe psychological abuse, you may lose your whole identity and begin to doubt your self-esteem or ability, making it harder to leave the relationship. Long-term psychological abuse may also result in bodily issues such as debility, anxiousness, drug dependence, chronic pain, and more. It is critical to have ongoing encouragement to assist you in managing emotional and mental abuse harm.⁶⁷

4.7 PHYSICAL VOILENCE

Physical abuse is defined as any intentional act that causes hurt or harm to another person or animal via physical touch. Children are usually the victims of real abuse, but adults may sometimes be victims, as in situations of abusive behaviour at home or antagonism at work. Alternative phrases that are now often used include genuine attack or actual savagery, as well as physical abuse. Actual abuse may entail more than one victim and a number of casualties.

⁶⁶ U.S.-Mexico border: the Paso del Norte metropolitan region, New York: Palgrave Macmillan, pp. 79–80, ISBN 9780230112919

⁶⁷ Staudt, Kathleen; Robles Ortega, Rosalba (2010), "Surviving domestic violence in the Paso del Norte border region", in Staudt, Kathleen; Monárrez Frago, Julia E.; Fuentes, César M. (eds.), Cities and citizenship at the U.S.-Mexico border: the Paso del Norte metropolitan region, New York: Palgrave Macmillan, pp. 79–80, ISBN 9780230112919

Actual abuse is defined as any accidental act or behaviour that causes harm, injury, or other actual pain or mischief. Harmful exposure to children is often the outcome of parental attempts to discipline children via excessive punishment. Various reasons of real abuse against adolescents have been identified, the most well-known of which, as Mash and Wolff point out, are:

Positive parenting models and assistance are not readily available to repressive and careless parents.

In many circumstances, there is a higher degree of stress in the home context.

Data dealing with harmful influences may lead to abusive parents misinterpreting or mislabeling their child's behaviour, resulting in improper behaviours.

Indeed, abused adolescents are at risk for later relationship challenges, reflecting strong patterns of behaviour, and more serious chances for teen drug use problems. Furthermore, disappointment, intense grief, and self-destructive ideas are all prevalent characteristics of those who have been battered. Furthermore, studies have indicated that children with a history of genuine abuse may satisfy the DSM-IV-TR model for posttraumatic stress disorder (PTSD).⁶⁸ At least 33% of kids who have been abused as children are at danger of being mistreated as adults.

When mistreated children grow up, experts have shed light on additional possible -natural impacts of genuine child abuse on nutrition. These novel results may be fueled in part by epigenetic modifications that influence the stress physiology guideline. Adverse Childhood Experience (ACE) research on adolescent and adult physical and mental health. Many additional potentially serious life-threatening impacts of real abuse of a young child on psychological well-being and improvement have been documented.

⁶⁸ UNODC (2010), "Introduction: justice system responses and victim protection · Preventive approaches · Responding to violence against women: the role of the police · Procedural law",

4.8 FINANCIAL ABUSE

- When most people think of domestic violence, they probably think of verbal abuse and physical assault. However, research suggests that financial abuse happens equally as often as other types of violence in unstable relationships.
- In fact, according to research conducted by the Centres for Financial Security, 99% of domestic violence cases also featured financial abuse.⁶⁹
- Furthermore, financial abuse is sometimes the first indicator of dating and domestic violence. As a result, understanding how to spot financial abuse is vital to your protection and security.

4.8.1 What Exactly Is Financial Abuse?

Controlling a victim's capacity to obtain, utilise, and keep financial resources is an example of financial abuse. Those who have been financially harmed may be unable to work.

Financial abuse, although less well-known than other types of abuse, is one of the most effective ways of keeping a victim locked in an abusive relationship. According to research, victims are often too anxious about their capacity to pay financially for themselves and their children to exit the relationship.

4.8.2 Symptoms of Financial Abuse

Financial abuse, in general, is particularly isolating since victims often become financially reliant on their abusers. This financial reliance binds them to the partnership. They are unable to envision a way out of their circumstance because they lack resources.

When a dating partner or spouse exploits or has control over your money, they are exploiting your resources.

⁶⁹ Adams AE. [Measuring the Effects of Domestic Violence on Women's Financial Well-Being](#). Center for Financial Security. University of Wisconsin-Madison. 2011.

4.8.3 Here are a few instances of this kind of exploitation:

- Controlling or spending your money: Attempting to control your use of or access to money earned or saved. They may also utilise your assets for their own profit without your authorization, such as stealing money or using credit cards.
- Ruining your credit history: They may do this by exceeding credit limits and then failing to pay bills, or by pretending to make payments or pay bills in your name but failing to do so.
- Feeling entitled to your money or assets: They may want your paycheck, passwords, and credit cards. They may also expect you to pay their debts or commitments, or to bail them out of tight financial circumstances.
- Interfering with your money: This might include utilising promises to assist with your budget or financial choices as a ruse to obtain control of your resources. They might seize your paycheck or other sources of money, intercept or access your bank statements and other financial documents, or threaten to lie to authorities and accuse you of "cheating or misusing benefits."
- Controlling Shared Resources and Assets
- Controlling the family resources occurs when a dating partner or spouse has entire control over the money in the relationship and you have little or no access to what you need. Here are some instances of controlling shared resources and assets.
- Criticising every financial choice you make and demanding that you account for every cent you spend (you may be asked for receipts and change)
- Having a double standard when it comes to spending (they may spend money on entertainment, eating out, and apparel, but they will criticise you if you make comparable expenditures)
- Making major financial choices without your participation, refusing to cooperate on money, and restricting your access to the entire financial picture as a couple are all examples of abuse.

- Limiting your financial access by denying you bank accounts or credit cards, or withholding financial information such as account passwords, account numbers, and investment information.
- Hide or take cash and place them in a separate account, insist on sharing your income while refusing to share theirs, or refuse to work or contribute to the family income
- Having control over your "purse strings," forcing you to beg for money, or imposing unreasonable limitations or allowances
- Demanding that you seek permission before spending money but not consulting you when they make purchases, and asking that significant, joint expenditures (such as vehicle loans, mortgages, mobile phones, or apartment leases) be in their name exclusively
- Getting furious about money and then committing other types of abuse such as name-calling or physical assault
- Evading or refusing to pay child support and dragging out divorce processes to financially ruin you

4.8.4 The Effects of Financial Abuse

Victims of financial abuse frequently feel inadequate and uncertain of themselves as a result of the emotional abuse that comes with it, and they are forced to go without food and other needs because they lack money.

In the near term, financial abuse exposes victims to physical abuse and violence.⁴ It is exceedingly difficult to prepare for safety without access to money, credit cards, and other financial assets.

For example, if an abuser is particularly violent and the victim needs to leave to stay safe, it is difficult to do so without money or a credit card; and if they need to leave the relationship

permanently, finding safe and affordable housing is difficult, as is providing for necessities such as food, clothing, and transportation.

4.9 Conclusion

Domestic violence is one of the most heinous types of mistreatment endured by ladies in our general public today, with research indicating that 85% of abusive behaviour at home casualties are female. Only 15% of casualties are men. Aggressive behaviour at home can happen to anybody, regardless of race, ideology, religion, or remaining in the public eye of the person in question.⁷⁰

⁷⁰ Cities and citizenship at the U.S.-Mexico border: the Paso del Norte metropolitan region, New York: Palgrave Macmillan, pp. 79–80, ISBN 9780230112919

CHAPTER - V

VARYING DIMENSIONS OF SEXUAL VIOLENCE

Sexual assault against males and transgender people is common. What occurs to women and children also happens to males and transgender people, although less often, more brutally, and invisibly than sexual abuse against women. The following investigation will look into:

5.1 Sexual violence against Males

Sexual violence against males is a complicated issue that may be triggered by a variety of factors and has severe psychological, physical, and social ramifications for the person, as well as having a catastrophic influence on the whole of society.

The study indicates that the impacts of sexual assault against males are magnified in a society in which women are humiliated, seen as lower subjects, and regarded as less respectable than men.

For a guy, being forced to play the feminine part in a sexual act, being feminised by being made a victim, losing control over his life and sexuality, and being unable to defend himself equates to losing all of the senses that define a man. In a society where it is stigmatised to be feminine - and hence weak - has far-reaching consequences for victims and their communities. These impacts are exacerbated by a negative societal perception of homosexuality, which many survivors are associated with.

To completely know the impact and role of sexual violence against men in society, it is necessary to evaluate and comprehend the underlying gender relations and the image of masculinity in the setting.

There is little question that the issue is widespread among male victims. Sexual violence against men and boys has been noted by the World Health Organisation as a serious issue that has largely gone unnoticed by nonprofit organisations, health care providers, government agencies, criminal justice authorities, and others. Rape, gang rape, sexual slavery, enforced nudity, and being compelled to perform sexual actions with others are all examples of violations. Sexual abuse against males is all too frequent in correctional settings.

5.2 Classification of sexual violence against Males

By 1980, research on male victim rape had only recently started and focused mostly on male minors. In the early 1980s, studies of sexual assault in correctional institutions focused explicitly on the implications of this kind of rape were accessible, but none was available prior to then. The majority of rape and sexual assault literature focuses on female victims.⁷¹

Other types of sexual assault against males have just lately been examined. The Centres for Disease Control (CDC) measured a category of sexual violence called "being made to penetrate" in the 2010-2012 National Intimate Partner and Sexual Violence Survey (and a prior edition of this study completed in 2010), which captures instances in which victims were forced to or attempted to sexually penetrate someone (of either sex), either by physical force or coercion, or when the victim was intoxicated or otherwise unable to consent. According to the CDC, 1.715 million people died in 2012.⁷²

1.473 million people reported being "made to penetrate" another person in the previous 12 months.

5.2.1 MALE ON MALE RAPE

Male-on-male rape has long been stigmatised. According to psychologist Sarah Crome, less than one out of every ten male-on-male rapes are recorded. Male rape victims as a group claimed a lack of resources and assistance, and court systems are often ill-equipped to deal with this sort of crime.

⁷¹ Richard Tewksbury. Department of Justice Administration, University of Louisville. [Effects on Sexual Assaults on Men: Physical, Mental and Sexual Consequences](#). International Journal of Men's Health, Vol 6, No 1, Spring 2007.

⁷² Smith, S. G.; Chen, J.; Basile, K. C.; Gilbert, L. K.; Merrick, M. T.; Patel, N.; Walling, M.; Jain, A. (2012). ["The National Intimate Partner and Sexual Violence Survey: 2010–2012 State Report](#)

According to many studies, male-on-male prisoner rape and female-on-female prisoner rape are widespread kinds of rape that go undetected even more commonly than rape in the general community.⁷³

Rape by males has been recognised as a terror weapon in battle.⁷⁴

In the Syrian Civil War (2011-present), male prisoners were subjected to sexual torture such as being forced to sit on a broken glass bottle, having their genitals strapped to a large bag of water, or being forced to see another inmate being raped by authorities.⁷⁵

5.2.2 FEMALE ON MALE RAPE

Female-on-male rape is understudied in comparison to other types of sexual assault. The proportion of female-on-male sexual assault varies according to statistics. According to one research (Hannon et al.), 23.4% of women and 10.5% of men reported being raped, whereas 6.6% of women and 10.5% of men reported being victims of attempted rape.⁷⁶

- According to Centres for Disease Control and Prevention (CDC) research conducted between 2010 and 2012, one in every 17 males (5.9%) reported being forced to penetrate at some time in their life (up from 4.8% in 2010). In cases of being forced to penetrate (2012: 78.5%, 2010: 79.2%), sexual coercion (2012: 81.6%, 2010: 83.6%), and unwelcome sexual contact (2012: 53.0%, 2010: 53.1%), male victims often reported solely female attackers. Only male attackers were reported by 86.5% of male victims who were raped by being penetrated (down from 93.3% in the previous research released in 2010).⁷⁷

⁷³ [Human Rights Watch No Escape: Male Rape In U.S. Prisons. Part VII. Anomaly or Epidemic: The Incidence of Prisoner-on-Prisoner Rape.](#)

⁷⁴ Storr, Will (17 July 2011). "[The rape of men : Society : The Observer](#)". *The Observer*. London: Guardian.co.uk. Retrieved 17 July 2011

⁷⁵ Amnesty International. 2012. "[I Wanted to Die': Syria's torture survivors speak out](#)"

⁷⁶ Fiebert, Martin S. (2000). "References Examining Men as Victims of Women's Sexual Coercion

⁷⁷ mith, S. G.; Chen, J.; Basile, K. C.; Gilbert, L. K.; Merrick, M. T.; Patel, N.; Walling, M.; Jain, A. (2012). "[The National Intimate Partner and Sexual Violence Survey: 2010–2012 State Report](#)"

- According to a 2008 research of 98 males from the United States National Crime Victimization Survey, over half of the men (46%) who experienced some type of sexual victimisation were victimised by women.⁷⁸
- Regarding female-on-male sexual misconduct, the US Department of Justice reports in its opening statement (page 5): "An estimated 4.4% of prison inmates and 3.1% of jail inmates reported experiencing one or more incidents of sexual victimisation by another inmate or facility staff in the past 12 months or since admission to the facility, if less than 12 months."
- Male victims of female sexual assault often endure social, political, and legal double standards. The case of Cierra Ross' sexual attack of a man in Chicago⁷⁹ made global news, and Ross was convicted of aggravated criminal sexual abuse and armed robbery with a bond set at \$75,000, according to the Chicago Tribune.
- In a similar instance, James Landrith was forced to enter a female friend in a hotel room while inebriated, while his rapist used the fact that she was pregnant to encourage him not to resist, as it may harm the baby.

In the United States, some well-publicised incidents of female-on-male statutory rape included school instructors engaging in illicit intercourse with their teenage pupils (see Mary Kay Letourneau and Debra Lafave). There have also been examples when a court ordered an underage male victim of statutory rape to pay child support after the lady got pregnant.

5.3 Types Of Sexual Violence Against Males

5.3.1 Rape

Rape meant the ultimate defeat and dominance of the opponent in ancient warfare.

⁷⁸ Weiss, K. G. (2008). "Male Sexual Victimization: Examining Men's Experiences of Rape and Sexual Assault". *Men and Masculinities*.

⁷⁹ [Cierra Ross, Chicago Mom, Charged With Raping Man At Gunpoint](#), *Huffington Post*, September 6, 2013.

It was formerly thought that a sexually penetrated man loses his masculinity and consequently his capacity to fight (Hardy 2002:20). Rape is defined as "the invasion of a person's body by conduct resulting in penetration, however slight, of any part of the victim's or the perpetrator's body with a sexual organ, or of the victim's anal or genital opening with any object or any other part of the body" (ICC Elements of Crime, Art. 7(1)(g)-1).

It should be noted that this definition is gender agnostic. While many national and international legal definitions of rape traditionally solely included the vagina as a genital hole that may be invaded, eliminating men and boys as potential victims,

- These definitions have eventually evolved into gender-neutral variants (Adler 2000:125). It is also worth noting that rape may be committed with any item, which includes the potential of female rapists. While rape may occur in a variety of settings, it is most common in imprisonment or during (forced) recruitment, since the offenders are often opposition forces and victims are therefore vulnerable and reliant on the perpetrators (Stemple 2009:611). Rape may take many forms, including being forced to perform oral sex on guards or other inmates/abductees, forced masturbation, being raped anally by the offender, who may also use objects, or being forced to rap other prisoners anally (Sivakumaran 2007:264). Unlike anal penetration by the penis, which leaves no visible physical evidence, the use of items increases the risk of wounds and scarring (Peel 2004:66). Sexual violence against males is generally more cruel and sadistic than sexual violence against women and occurs in isolation (Lynn King and Greening 2007:1056; Peel 2004:61).

5.3.2 Rape as Means of Torture

Rape is often used as part of a larger torture scheme. Torture, according to Hardy (2002:21), is used to exert control over an individual or a group. Rape may be employed to attain this purpose in this situation.

- Sexual assault was a crucial component of most of the torture committed by state and co-opted actors against their victims in captivity, notably between 1965 and 1970. These actions were

committed routinely against female inmates, while certain sorts of sexual abuse were utilised as torture against male captives. These sexualized forms of violence were all torture in the sense that they were meant to frighten, degrade, humiliate, punish, control, or destroy victims.⁸⁰

- Torture is characterised variously depending on the legal field (human rights law, international humanitarian law, and international criminal law). The basic conditions in each category are that the act of violence: (a) caused serious damage on purpose; and (b) was performed for a banned purpose (seeking information, degradation, humiliation, punishment, discrimination, and so on).⁸¹
- As with all crimes against humanity, two "chapeau" elements must be satisfied: first, that "the conduct was committed as part of a widespread or systematic attack directed against a civilian population"; and second, that "the perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population."⁸²
- Rape was first identified as an act of torture in the ICTR's Akayesu decision in 1998. While rape was not tried as torture in that instance, the Trial Chamber recognised that rape is torture under Article 3(f) of the Tribunal's Statute because: *Rape, like torture, is used to intimidate, degrade, humiliate, discriminate against, punish, control, or destroy a person. Rape, like torture, is a breach of personal dignity, and it is torture when inflicted by or at the instigation of, or with the permission or acquiescence of, a public official or other person acting in an official capacity.*⁸³

5.3.3 COERCED STERILISATION AND GENITAL VIOLENCE

⁸⁰ Steven Dewulf, *The Signature of Evil: (Re)Defining Torture in International Law* (Cambridge: Intersentia, 2011), 60–69.

⁸¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ; Article 1

⁸² UN Preparatory Commission for the International Criminal Court, Report of the Preparatory Commission for the International Criminal Court, Finalized Draft Text of the Elements of Crimes, UN Doc. PCNICC/2000/1/Add.2 (2000).

⁸³ The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Decision of: 2 September 1998, para 598

Enforced sterilization occurs when a group of individuals are compelled to undergo a procedure that prevents them from having children. This is done as part of a larger scheme to hurt that particular group of people. It is a severe crime that is punishable by law in many nations.

When a group of individuals is forcefully sterilised as part of a systematic assault on that group, this is known as forced sterilisation. Sterilisation is a medical technique that prevents a person from having children. It is a violation of a person's human rights when it is done without their permission.

Sexual violence against males, particularly castration by cutting off the victims' penises, has historically been common in numerous battles. Warriors in Ancient Persia stacked their opponents' penises high on platters to indicate victory. Removing the penis or testicles represented feminization and male disempowerment (Bringedal Houge 2008b:65). Captured men and boys in Mesoamerica became "body servants," or sex slaves, for the warriors (DelZotto & Jones 2002:2).

5.4 Causes of Sexual Violence Against Males.

5.4.1 Masculinity

Masculinities are not universal. It varies as much across civilizations as it does between eras. There is no one kind of masculinity. As a result, there are several definitions of masculinity. Men's behaviour, beliefs, and practises vary throughout situations and even within men within the same culture.

Men's experiences with class, culture, and sexual orientation shape their masculinity. Forms of masculinities vary, just as men do, and constantly relate to the setting (Lorentzen 2011:112).

- Gender views socialise males in the same manner that they socialise women. However, the idea of masculinity exists primarily in comparison to femininity (Connell 2005:68). Masculinity is therefore always about the interaction between men and women. The essentialist definition of masculinity views it as a contrast to femininity, such as energetic vs passive, but the semiotic definition sees it as not femininity. In such a society, males are compelled to vary as much as possible from what is believed to be feminine. While most kinds of masculinity are associated with characteristics like as physical strength, sexual performance, protection and support of

women, homosexuality poses a danger to masculinity since it combines feminine and masculine characteristics.

5.4.2 Rape Due To Anger

Rapists' purpose is to humiliate, degrade, and harm their victims. Rape is the ultimate expression of their rage for these rapists, who use sex to dishonour and humiliate the victim. Rape is the utmost offence that this rapist may conduct against the victim.⁸⁴

Anger rape is distinguished by physical brutality: much more physical force is utilised during the attack than would be required if the objective were only to overpower the victim and penetrate. This perpetrator assaults their victim by seizing, hitting, and knocking them to the ground, then beating, ripping their clothing, and raping them.

For the perpetrator, the sensation is one of conscious fury and rage.

5.4.3 Sexual Violence for Need of Satisfaction

The motivations for sexual violence are likely to be as diverse as the forms it might take. Every perpetrator acts for a variety of reasons, which vary by culture, period, and environment. It is difficult to determine the broad underlying causes of this occurrence.

As a result, two theories develop. The first strain is based on an opportunist argument. when sexual violence occurs at random on an individual level and is uncontrolled. Armed troops indulge their sexual desires. The second school of thought contends that sexual Violence is undertaken with the intention of terrorising and controlling civilizations.

Rape as an effective technique against the adversary, which is approved or even organised by the leaders to attain this aim. This will be covered in the next section. While the latter may and maybe intended at eliminating the opponent's or population's culture, the first Rape is

⁸⁴ "Center for Sex Offender Management Lecture Content & Teaching Notes Supervision of Sex Offenders in the Community: An Overview". Center for Sex Offender Management.

considered as an unavoidable component of combat, and it is utilised to reassert the perpetrator's authority.

- Seifert (1994) defines masculinity as "the quality of being a man." It is tough to comprehend how someone can perform a sexual act in the middle of war. However, this motive for sexual assault must be addressed. According to Littlewood (1997:12), a wartime environment may "promote such a thing," potential, in which rape involves a component of conquering and violence, as well as penetration with a weapon or other thing perceived as a "frustrated or disgusted reaction to a failure to be successful "aroused". Furthermore, during battle, social restraints are weak or interrupted, and a Conflict increases the number of possibilities to conduct a crime like rape without being caught accountable. As a result, the offence has no repercussions. Peer pressure as well as group pressure Bonding among military troops may have an extra function in sexual assault.
- Wood (2006):322-327 describes violence. Furthermore, it cannot be argued that a position of Power and control over another person has a sexual component. Sexuality is defined as generally associated with power and dominance - the all-too-common rape fantasy among In times of peace, both men and women serve as indicators for this partnership. Dominance As a result, violence and sexuality cannot be totally disentangled.
- In addition, a culture of impunity and the normalcy of atrocities are issues. sway armed soldiers to do what they can. These objections, however, are only raised when in relation to sexual assault against women. The implications of male rape for the So far, the goal of gratifying sexual demands has not been addressed in the literature on sexual assault against males in war. Its potential, however, should not be dismissed. The sexual drive argument in relation to sexual assault against males will be discussed in this study.

5.4.4 Rape as a Military Weapon

Because sexual assault is all too common and pervasive in armed situations, Skjelsbaek (2001:213) contends that it is very unlikely that it is not a weapon of war. Furthermore, too many parties in a dispute commit sexual violence, thus it cannot be used only be perpetrated

by aberrant and deviant individuals - or, in the instance of men-on-men violence - Homosexual guys are raped.

Rape has been used as a weapon of war in several battles. Sexual Violence is used to terrorise a people. Fear alone has the power to compel people to run away. Rape has a severe physical and psychological impact not just on the victim, but also on the perpetrator.

However, it also has an impact on the whole community. Particularly in a patriarchal setting where beliefs When it comes to women's bodies, sexual assault is a powerful tool.

- Rape assaults the ideas of dignity, shame, family, and identity, resulting in humiliation and demoralization and finally eroding the targeted community's togetherness and social fibre community. The criminals most successfully destroy social cohesiveness as well as the community's general identity by forcibly impregnating women.
- As a result, sexual violence is seen as a more potent tool in destroying social fabric than others, since a single assault has far-reaching effects for the victim's family, the guys, and the larger community are all affected. The community's response is Frequently, to avoid the victim and maybe the whole family. Furthermore, the women's and the men's Both dignity and the group's identity are under threat (Farwell 2004:396). If rape occurs, When done on a large scale, it has repercussions across society as well as via the environment. Individual psyches are shattered when communal cohesiveness is broken.

5.4.5 Social Constructionism: Dominance and Power

The third conception regards gender interactions as "constructed." via transactions thought to be exclusive to one sex" (Skjelsbk) 2001:224). This alters the perspective of men as perpetrators and women as victims. Both men and women may be abusers or victims. As a result, the Men are also victims of sexual violence in the third conception. Because there have been many cases of men being raped by other men in both peace and war. Men, social constructionism explains sexual assault via power dominance. Men who rape other men are almost never gay. The reason for sexual violence is to control the victim and compel him to play the feminine role, feminising him.

When the offender assumes masculinity The victim, regardless of gender, is feminised in this position. A guy who has been sexually abused As a result, he loses social standing and slips under the hegemonic hierarchy to a "feminised", (Sivakumaran 2007:271).

As previously stated, Sexual abuse against males is especially common in prison settings, because "one cannot escape Man who has control over another."

As a result, rape is more of a "pseudo-sexual act" of power. Furthermore, raping women is a kind of communication which tells the males in the group that they are unable to safeguard their women, raping guys sends a clear message that men are unable to defend themselves or their families.

Sexual Violence directed specifically towards males also aims to subjugate the victims and to maintain the gender hierarchy and so dominate others - both men and women - along the basis of socially imposed gender ideals.

5.4.6 Homosexuality

Men-on-men rape is often tied to debates of homosexuality (Graham). 2006:192). However, the majority of the offenders are heterosexual (Graham). 2006:198). The offender feels heterosexual because he rapes another guy while the victim is "tainted" with the concept of "He is gay because he is obliged to play the feminine role."

Furthermore, if a culprit compels two guys to rape each other, both of whom are homosexuals, Regardless of the function they play in the performance (Sivakumaran 2005:1298). One of the perpetrator's goals might be to stigmatise homosexuality. to the victim, particularly in a country where homosexuality is frowned upon or even prohibited.

- Rape, in this context, adds an extra stigma to male victims, which female victims do not face. Victims do not have any feelings (Sivakumaran 2005:1293-1294). It is common as this is a natural response, the victim may get an erection or have an ejaculation during the rape.

- The answer does not correspond to psychological sentiments. Such responses are possible. cause victims to be confused about their sexuality and may make them feel even more isolated ready to share their knowledge (Peel 2004:67). Bringing homosexuality to a male victim. It was is also a method of emasculating him by removing his heterosexual status and It gave the offender strength and masculinity (Sivakumaran 2007:272) because gay guys are connected with homosexuality, yet being lower in the hegemonic order than other males has serious ramifications for victims in terms of their desire to disclose and Then there are treatment and preventative concern.

5.4.7 Rape as a Form of Punishment

Rape is often used to punish populations accused of supporting terrorists. Mechanic (2004:17) came to the same conclusion. Every group on either side rapes citizens who are denied their right to privacy. "It seems you're against us, and you're not one of us," says one expert as one of the criminals. According to the survivors, sexual assault is sometimes a component of the process. Torture, in which offenders attempt to obtain information from the victim.⁸⁵

5.4.8 Rape As A Form Of Humiliation And Dominance

According to Dolan's (2010:49) research in the eastern DRC, The goals of sexual assault are to exhibit power and dominance, as well as to humiliate and destroy communities.

The guy is the active participant, the "conqueror" in sexual relationships. When considering When it comes to sexual violence against males, the conqueror becomes conquered.

- "It's a sign of defeat, and it takes control of your own life." Rape is a "quick way to completely humiliate a person physically, destroying their identity." removing their places, destroying their confidence."⁸⁶ Sexual assault is a tactic that is being used to dehumanise you to demonstrate that "you are a nobody" It targets Your dignity and humanity. It communicates the notion that

⁸⁵ Interview with Representative A, Refugee Law Project, Kampala, Feb 2, 2012

⁸⁶ Interview with Representative B, Refugee Law Project, Kampala, Jan 20, 2012.

"you're not everything they said " You are not strong, not good enough, not clever, and you are nothing.⁸⁷

- The criminal subordinates the victim by violently seizing control of another guy controls him and places him in a subservient position, thereby feminising him. Sexual assault This connection is shown in an extreme degree in this environment.

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5.4.9 Rape as a Result of Disempowerment and Emasculation

The experience of war and violence alters people's thoughts and personalities. FARDC soldiers who perpetrate heinous sexual atrocities they would never commit under regular conditions (Eriksson Baaz and Stern 2009:513) are intended to "humiliate the dignity of people" and often entail mutilation and execution of the victims Eriksson Baaz and Stern (2009):510.

Inserting (weapon-like) items, It has become usual to throw "sticks, bottles, knives, and gun barrels" at the victim (Meger)2011:7). Such sexual assault indicates that sexual violence is not simply becoming more prevalent.

"Evil rapes" serve as an outlet for fury. Suffering and rage as a result of the fighting scenario, resulting in a sensation or "wish to destroy Eriksson Baaz and Stern (2009):511. As a result, offenders get more habituated to a greater degree of violence.

Sexual conquest, ownership, and exploitation are used to reassure the perpetrator of his power and control, as well as to compensate for feelings of inadequacy and weakness.

- People who are disempowered and emasculated as a result of economic difficulties are seeking for a solution to regain control and achieve the idealised and highly desired masculinity. Male rape serves as a mechanism in this effort to reclaim masculinity. In this view, hegemonic masculine values are the most crucial factor and cause of sexual violence.

⁸⁷ Interview with Representative A, Refugee Law Project, Kampala, Feb 2, 2012

5.5 SEXUAL VIOLENCE AGAINST TRANSGENDERS

In the 21st century, India supports gender equality and equal treatment, yet its courts reject "gender neutrality" when resolving sexual assault cases. India officially accepts both male and female genders, and transgender people enjoy the same constitutional protections and basic rights as those of the same gender.

- The SC in *NALSA v. Union of India*⁸⁸, accepted them as "third gender." In a society that acknowledges the third gender, gender-neutral sexual assault laws seem odd. Since they only apply to males, these criminal statutes do not include a third gender. Transgender people have legal rights. After voting in national elections, citizens enjoy constitutional equality. Article 14 guarantees legal equality in India. Gender discrimination is wrong..
- “Because the transgender population has existed in India throughout history and mythology, it cannot be considered a novel or foreign notion. Indeed, the Hijra people in India may trace their roots back to stories from the Ramayana and Mahabharata”⁸⁹.
- The absence of inclusion in criminal law is disheartening. Several studies in India have revealed sexual and physical abuse against transgender people. Transgender people have long been victims of sexual assault, but there is no legislation in place to assist them receive justice. These crimes include sex trafficking, rape, sodomy, stalking, workplace and other sexual harassment, and so on.⁹⁰
- Emotional, physical, sexual, or verbal assault towards transgender persons is all forms of violence. Discrimination against trans persons, including physical or sexual assault, is frequent as a result of transphobia or homophobia.
- A notorious event was the rape and murder of **Brandon Teena**, a young trans guy, by two male friends in December 1993 after they discovered he had been assigned female at birth.⁹¹

⁸⁸ AIR 2014 SC 1863

⁸⁹ Narrain, S. (2003), Being A Eunuch, Frontline

⁹⁰ Human Rights Violations against the Transgender Community: A Study of Kothi and Hijra Sex Workers in Bangalore, India, (2003), Peoples' Union for Civil Liberties, Karnataka (PUCL-K)

⁹¹ Ramsland, Katherine. "[Teena Brandon](#)". [TruTV](#). p. 5. Archived from [the original](#) on 14 December 2013. Retrieved 22 February 2009

- Transgender people perpetrate such crimes from their youth. Between April and October 2015,⁹² 971 (44.7%) transgender people were reported to have faced 2811 episodes of violence, averaging three incidences per person. The trans community has suffered greatly as a result of being excluded from definitions of sexual offences.. According to a research conducted by India's National Human Rights Commission (NHRC), 52% of the transgender population received abuse from their peers and 15% from their professors, resulting in their dropping out of school. It is terrible since it is stated that the majority of sexual attacks against transgender people occur when they seek aid from the police.⁹³
- People's Union for Civil Liberties — Karnataka investigated examples of human rights violations against transgender people, and the findings were shocking. "Sexual violence is a recurring and pervasive theme in all of the narratives gathered for this report." Along with physical abuse such as beatings and threats of disfigurement with acid bulbs, the hijra's sexuality becomes a focus of prurient curiosity, at the very least, which leads to violent assault at the very worst.
- According to the stories, the police frequently humiliate hijras by asking them sexual questions, feeling up their breasts, stripping them, and in some instances raping them. Such activities, with or without the element of physical violence, constitute a breach of the integrity and privacy of the person's own sexual being.

5.6 Distinguishing From Gay Bashing

Trans bashing, unlike homosexual bashing, is motivated by the target's real or perceived gender identity or gender expression rather than sexual orientation.

People from the larger trans groups have often been politically connected with the lesbian, gay, and bisexual communities, at least since the Stonewall riots in 1969.⁹⁴ However, scholars and some trans activists contend that trans bashing should be classified separately from violence done on the basis of sexual orientation ("gay-bashing").⁹⁵

⁹² Sumit Chaturvedi, Abuse of Transgender Indians Begins in Early Childhood, IndiaSpend...

⁹³ Shruti Jain, Pride Month 2020: Evaluating the Transgender Persons Act, 2019, Observer Research Foundation.

⁹⁴ Kay Dayus, Transgenders Protest HRC Exec's Visit to Houston, Hous. Voice, 29 September 2000

⁹⁵ *William and Mary Journal of Women and the Law*. 7: 139–145.

- In scholarly research, anti-trans bias crimes have been conceptually and characteristically distinguished from homophobic crimes. One argument is that conflating violence against trans people with violence against gay people erases the identities of people in the larger trans communities as well as the truth about what happens to them. Campaigns against homosexual and trans bashing, on the other hand, are often perceived as having a shared cause.

The evolution of legislation dealing to sexual assaults and transgender people.

Criminal laws in India are greatly impacted by the thinking of the people in the society. The long-standing patriarchy ingrained in people's beliefs has resulted in a scenario in which the man is always the culprit and can never be the victim due to his gender.

This has resulted in gender-specific rape legislation and other sexual crime regulations, such as the POSH Act, of 2013, which is designed to safeguard women in the workplace.

5.8 Indian Rape Laws

Prior to the infamous Mathura rape case, Indian rape legislation was exceedingly restricted, backward, and discriminating towards women. For a long time, the burden of evidence in such cases rested on the victim, but following the Mathura rape case⁹⁶, the responsibility was moved to the guilty. Another demand was for rape trials to be held in camera and for the victim to remain anonymous. As a result, the rape statute was altered to reflect the protestors' proposals and demands.

- The Indian women's movement has prioritised rape law reform since the 1980s. Women's organisations have worked to broaden the legal definition of rape. India's rape laws didn't allow non-consensual sexual behaviour until 2013. The legislation solely covered female rape victims (excluding hate crimes). The 2013 modification also classed acid assaults as hate crimes and harmonised punishments regardless of gender. However, transgender people are not protected.

⁹⁶ Tukaram v. State of Maharashtra, (1979) 2 SCC 143

- Nonetheless, there were legal protections in place for victims of sexual assaults that did not meet the description of "rape" under Section 375. Such acts might be prosecuted under Section 377, which defines "unnatural sexual offences" as follows:

Unnatural offences. — Whoever willingly engages in sexual intercourse against the order of nature with any man, woman, or animal shall be punished with life imprisonment or imprisonment of either sort for a period not exceeding 10 years, as well as a fine.

Explanation. — Penetration is enough to establish the carnal intercourse required for the crime stated in this section. 377.

- While this rule may serve as a legal protection, it was also quite discriminatory in nature, as it defined some consensual actions as "unnatural" simply because they did not fit into the normatively accepted understanding of what constituted "natural." What is unusual and regrettable is that the same rule still applies to sexual crimes today, even after Section 377 was decriminalised. This section equates male-on-male or female on female rape with freely sexual intercourse between two consenting homosexuals, demonstrating the law's regressive character.

5.8 Position of transgenders under the law

- Before the *Navtej Singh Johar v. Union of India*⁹⁷ judgement, the AIDS Bhedbhav Virodhi Andolan (ABVA) published a 1991 research detailing the horrors committed against transgender people under Section 377 IPC and calling for its abolition. Thus, a writ petition challenged Section 377's constitutionality. The petition for a writ of mandate was refused because it would offend public morality, order, and decency and protect legal morality and majority morality.

Despite the fact that the petition was denied on technical grounds, it had already galvanised the transcommunity to fight for their rights and seek legislative protections against sexual assaults. This action gave rise to another lawsuit, *Sudesh Jhaku v. K.C.J.*, in which the issue of gender neutrality was first considered.

⁹⁷ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

(i) In the case of *Sudesh Jhaku v. K.C. Jhaku*⁹⁸

The topic of gender neutrality of sexual crimes initially surfaced in the 1996 Sudesh Jhaku case, in which the Delhi High Court pressed on the legislature enacting gender neutral criminal legislation. As a result of this decision, the Supreme Court raised matters for the Law Commission of India to investigate. This prompted the 172nd Law Commission Report.

(ii) *Report of the 172nd Law Commission*⁹⁹

The 172nd Law Commission Report of 2000 principally addressed the evaluation of legislation pertaining to sexual crimes and suggested several revisions, including gender neutrality. While Sections 375 and 376 were thoroughly explained, Section 377 received little attention in the Report. Nonetheless, it is suggested that this part be deleted for the following reasons:

"In light of the change we made in Section 375, we believe that Section 377 deserves to be deleted." Following the amendments we made in the previous provision (Sections 375 to 376-E), the only content remaining in Section 377 is having consensual carnal intercourse with any animal, in which case we may leave such individual to their due deserts."

While Section 377 was suggested to be repealed, nothing was mentioned regarding gender neutrality or the legal protections granted to transgender people. However, the Report did not take form until 2012, but the trans community was able to observe the growth in the minds of the legislators, which led to another ground-breaking decision in *Naz Foundation v. Govt. of NCT of Delhi*.

(iii) *In the case of Naz Foundation v. Govt. of Delhi's NCT*¹⁰⁰

The case of the *Naz Foundation v. the Govt. of Delhi* paved the way for the transgender community. Since 1994, the Naz Foundation has been a non-governmental organisation focused on HIV/AIDS, sexual education, and health. The Foundation filed a writ

⁹⁸ 1996 SCC OnLine Del 397 : 1998 Cri LJ 2428.

⁹⁹ Ministry of Law, Government of India, One Hundred and Seventy-Second Report on Review of Rape Laws, Law Commission of India (2000).

¹⁰⁰ 2009 SCC OnLine Del 1762.

petition contesting Section 377's constitutionality, and the case was considered by the Delhi High Court.

Recognising the rising knowledge of homosexuality and transgenderism, the Delhi High Court decriminalised Section 377 if the conduct occurred between two willing persons. The immediate response of sexual minorities throughout the country was joy, while religious authorities opposed it with equal fervour. This glimmer of optimism was quickly dashed when an appeal against the Naz Foundation was filed with the Supreme Court. Prior to this appeal, a committee was constituted in 2012 to evaluate the country's rape laws in the aftermath of the horrible Nirbhaya rape case. The Verma Committee was the name of this committee.

(iv) **The Verma Committee**¹⁰¹

For the first time, the Verma Committee heard the voices and screams of the LGBTQA community on the need for gender inclusive laws pertaining to sexual assaults. The community was given the opportunity to voice their dissatisfaction with the lack of inclusion and legal protections in crimes involving sexual assaults.

Unlike the 172nd Report, the Committee recommended retaining the rape law and making sexual assault a gender-neutral offence by using the term "person" instead of "woman" for the purposes of defining victim of rape and sexual assault and retaining the term "man" for the perpetrator, thereby bringing the transgender community within its scope.

This was only a temporary victory for trans people because while the Criminal Law (Amendment) Ordinance, 2013 adopted a gender-neutral approach to rape law, the Criminal Law (Amendment) Act, 2013 only implemented recommendations to make rape laws more stringent by broadening the definition of "rape." It failed to address gender equality and kept discriminatory sexual crime classifications. The controversial *Suresh Kumar Koushal v. Naz Foundation*¹⁰² ruling ended it.

The Supreme Court reversed *Naz Foundation v. Govt of Delhi* In 2013 and reinstated Section 377. The Court ruled that Section 377 did not violate LGBTQA civil rights. The community is a tiny and insignificant slice of the people, and the Court cannot pronounce legislation supra

¹⁰¹ JUSTICE J.S. VERMA COMMITTEE, *Report of the Committee on Amendments to Criminal Law*, 66 (January 23, 2013)

¹⁰² (2014) 1 SCC 1.

vires by relying on other nations' courts. The Court explained that criminal laws reflect public morality and that Indian culture strongly opposed homosexuality. The Court concluded that public health, safety, and morality require government intervention, rejecting privacy. Transgender support increased after the court verdict was widely denounced.

The Court did not, however, completely rule out the possibility of Section 377 reform. The judgement stated that "notwithstanding this verdict, the competent legislature shall be free to consider the desirability and propriety of deleting Section 377 IPC from the statute book or amending the same as per the Attorney General's suggestion."

The decision sparked outrage and was criticised for failing to comply with the International Covenant on Civil and Political Rights (ICCPR), to which India is a signatory. It was at this point that the judiciary was forced to take a stand on the status of transgender people, both socially and legally. This resulted in the *NALSA v. Union of India* judgment.

(vi) In the case of NALSA v. Union of India¹⁰³

In the year 2014, the court took a stand and awarded the transcommunity legal recognition as a "third gender" in *NALSA v. Union of India*. The Court ruled that the term "person" in Article 14 is not restricted to men and women, but also includes hijras and transgender people who are neither male nor female. The judgement further highlighted the absence of legal protections for the community, stating:

62. ... the failure to recognise the identification of hijras/transgender people gives them equal legal protection, leaving them very exposed to harassment, abuse, and sexual assault in public places, at home, and in prison, even by police. Sexual assault, including molestation, rape, forced anal and oral intercourse, gang rape, and stripping, is rampant, and there are trustworthy data and resources to back it up.

The judgement mandated proactive action by the Central and State Governments to guarantee the community's basic rights, public health, and social welfare in accordance with the *Yogyakarta Principles*¹⁰⁴. This provided the LGBTQIA community a feeling of satisfaction

¹⁰³ (2014) 5 SCC 438.

¹⁰⁴ Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, International Commission of Jurists

since their human rights were respected despite their small number. Despite the acknowledgement, the pragmatic reality remained unaltered till 2018 in *Navtej Singh Johar v. Union of India*.

(vii) In the case of Navtej Singh Johar v. Union of India¹⁰⁵

The Supreme Court dismissed IPC Section 377 criminal proceedings. Section 377 covers both heterosexual and homosexual sexual activities, even though the LGBT population usually bears the burden of evidence. Criminal law promotes morality and decency, according to the 1957 Wolfenden Committee Report. J.S. Mill believed government should remain out of personal life. Therefore, consensual homosexuality between two mentally stable adults should be decriminalised in their own homes for privacy and morality. Sexual orientation privacy is crucial. Sexual orientation discrimination violates a person's dignity and self-worth. The government should not criminalise their sexuality or dictate their lifestyle.

The Constitutional Bench of the Supreme Court unanimously declared Section 377 IPC unconstitutional to the extent that it criminalises consensual sexual conduct between two adults in private, regardless of whether they are homosexual, heterosexual, same-sex, or transgender. The provision will still apply to non-consensual sexual acts against adults, minors, and acts of bestiality. The paper says mutual consenting is "natural" and does not violate the "order of nature."

- Following the legal recognition of the third gender via the NALSA ruling and other legal developments within the community, it was only natural to anticipate legislation that would involve and safeguard the rights of transgender people. This resulted in the passage of the Transgender Persons (Protection of Rights) Act, 2019.

(viii) Transgender Persons (Rights Protection) Act of 2019.

The Lower House initially approved the Transgender Persons (Protection of Rights) Bill, 2019 in 2016. The bill failed in the Upper House, stopping the legal procedure. The Bill was

¹⁰⁵ (2018) 10 SCC 1.

reintroduced in 2019 and became law after clearing the two houses and getting presidential approval. This Act was criticised for neglecting to consult with the transgender community, although it did highlight certain major issues.

The Act defines the following transgender offences: (i) forced or bonded employment (save for obligatory government labour for public reasons), (ii) denial of use of public places, (iii) deportation from home and village, and (iv) physical, sexual, verbal, emotional, or economic abuse. The penalties for these infractions range from six months to two years in prison.

While this Act provided some comfort to trans-activists and the community, as well as stabilised transgenders' legal status, India still has a long way to go in terms of inclusion and protection of transgenders from sexual assaults.

5.9 UNCOVERING UNDERREPORTED CASES OF SEXUAL VIOLENCE AGAINST MEN AND TRANSGENDERS

Sexual assault is a horrific crime that affects people of all genders. While society often links sexual violence with women, it is important to recognise that males may be victims of such crimes as well. Unfortunately, sexual violence against males is often underreported, resulting in a substantial lack of knowledge, assistance, and justice for male survivors. This article examines the causes behind the underreporting of sexual assault against males and emphasises the significance of resolving this problem.

THE PREVALENCE OF SEXUAL VIOLENCE AGAINST MEN

Because of social attitudes and gender preconceptions, sexual assault against males is an unsettling reality that frequently goes unrecognised. According to research surveys, a significant proportion of males suffer sexual assault or abuse over their lives. The true prevalence, however, is likely far greater since many male survivors choose not to disclose their experiences.

5.8.1 Factors Contributing to Underreporting

1. Social Stigma: One primary reason for the underreporting of sexual violence against men is the prevailing social stigma surrounding male victimhood. Society often expects men to be strong, invulnerable, and in control, making it difficult for male survivors to come forward without fear of judgment or disbelief.

2. Gender Stereotypes: Traditional gender roles and stereotypes reinforce the notion that men should be dominant, assertive, and sexually aggressive. These stereotypes create a perception that men cannot be victims of sexual violence, leading to disbelief or trivialization when men do report such incidents.

3. Fear of Homophobia: Sexual violence against men is often associated with notions of homosexuality, which can subject male survivors to further discrimination and victim-blaming. Fear of homophobia and the potential impact on their social identity can discourage men from reporting their experiences.

4. Legal Barriers: Legal frameworks in many jurisdictions are often ill-equipped to handle cases of sexual violence against men. Laws may lack specific provisions for male survivors or fail to acknowledge that sexual violence can occur in various forms, including non-consensual acts, harassment, or exploitation.

5.8.2 Consequences of Underreporting

The underreporting of sexual violence against men has severe consequences for survivors and society as a whole:

1. Lack of Support: Underreporting prevents male survivors from accessing essential support systems, such as counseling, therapy, or support groups. This lack of support can significantly impact their psychological well-being and hinder their healing process.

2. Inadequate Resources: Insufficient reporting leads to a dearth of resources specifically tailored to meet the needs of male survivors. This includes crisis centers, helplines, and outreach programs, resulting in limited avenues for seeking assistance.

3. Misconceptions and Ignorance: Underreporting contributes to a lack of awareness and understanding about the prevalence and impact of sexual violence against men. This perpetuates misconceptions, stereotypes, and a culture of silence, making it harder to break the cycle and address the issue effectively.

5.8.3 Breaking the Silence: The Way Forward

1. Raising Awareness: Public education campaigns should focus on dispelling stereotypes and promoting understanding that sexual violence can affect anyone regardless of gender. These efforts should encourage open discussions and foster an inclusive environment for male survivors to come forward.

2. Victim-Centered Support: Service providers and support organizations should ensure their resources are accessible and inclusive to all survivors, irrespective of gender. This includes establishing helplines, counseling services, and safe spaces that are sensitive to the unique experiences and needs of male survivors.

3. Legal Reforms: Governments must revise existing laws and policies to recognize the full range of sexual violence that can be perpetrated against men. This includes providing legal avenues for reporting, ensuring fair investigation procedures, and imposing appropriate penalties on perpetrators.

4. Training and Sensitization: Empowering Professionals to Address Underreporting of Sexual Violence Against Men and Transgenders

5.8.4 To effectively tackle the underreporting of sexual violence against men and transgenders, it is crucial to provide comprehensive training and sensitization programs for professionals working in various fields. These professionals play a vital role in supporting survivors, investigating cases, and creating an environment where male victims feel safe and empowered to come forward. Important factors to consider are listed below:

1. Healthcare Professionals: Medical practitioners, including doctors, nurses, and psychologists, should receive specialized training to recognize and respond to signs of sexual violence in male patients. Sensitization programs can help them create a safe and non-

judgmental space for disclosure, conduct appropriate examinations, and offer the necessary support and referrals.

2. Law Enforcement Officials: Police officers, investigators, and legal professionals must undergo training to address the unique challenges faced by male survivors. This includes understanding the psychological impact, dispelling myths and stereotypes, and adopting trauma-informed interviewing techniques to ensure sensitive and respectful interactions with survivors during investigations.

3. Social Service Providers: Social workers, counselors, and advocates working with survivors of sexual violence need training that addresses the specific needs and experiences of male victims. This includes knowledge of available resources, understanding the impact of societal biases, and providing appropriate support and guidance throughout the healing process.

4. Education Professionals: Teachers, school counselors, and administrators should receive training on recognizing signs of sexual violence among male students and creating a safe and inclusive environment. Educational institutions should implement comprehensive prevention programs that address consent, healthy relationships, and respectful behavior for all genders.

5. Judicial System: Judges, lawyers, and court personnel require training on the dynamics of sexual violence against men to ensure fair and unbiased legal proceedings. Sensitization programs can help them understand the societal barriers faced by male survivors and develop a victim-centered approach within the legal system.

6. Media and Communication Professionals: Journalists and media professionals should be educated on responsible reporting of sexual violence against men. Sensitization programs can help them avoid reinforcing stereotypes, victim-blaming, or sensationalism, thereby creating a more informed and compassionate public discourse.

7. Community Leaders and Influencers: Engaging community leaders, influencers, and celebrities in sensitization campaigns can have a significant impact in challenging societal attitudes and stereotypes. Their endorsement of male survivors' stories, advocacy for support services, and commitment to breaking the silence can encourage others to come forward and seek justice.

- It is essential to ensure that these training programs are evidence-based, culturally sensitive, and regularly updated to reflect the evolving understanding of sexual violence and its impact on male survivors. Collaboration between governmental organizations, NGOs, and academic institutions can help develop comprehensive training curricula and resource materials.

By empowering professionals across various sectors, we can create a supportive network that encourages reporting, provides appropriate services, and contributes to a more compassionate and informed society. Together, we can break the silence surrounding sexual violence against men and work towards a future where all survivors receive.

CHAPTER VI

DOMESTIC VIOLENCE AGAINST MEN AND TRANSGENDERS,

Domestic abuse may happen to everyone, regardless of gender. While female victims are the majority of recorded instances, it is vital to recognise that males may also be victims of domestic violence.

Among the well-known examples of domestic violence against males are:

6.1 The Case of Johnny Depp and Amber Heard: A Complicated Tale of Domestic Violence Allegations¹⁰⁶

The high-profile case between Johnny Depp and Amber Heard captured media attention and raised awareness on male-on-male domestic abuse. The couple's turbulent relationship, claims of abuse, and following court fights highlighted the intricacies and obstacles that such situations entail.

Background:

Johnny Depp, a well-known actor recognised for his work in multiple blockbuster films, and actress Amber Heard met on the set of "The Rum Diary" in 2011 and started dating soon after. They married in 2015 but divorced a year later due to irreconcilable disagreements. The divorce procedures swiftly became contentious, with both parties accusing the other of domestic abuse.

Counter-Allegations and Allegations:

Amber Heard accused Johnny Depp of physically and emotionally assaulting her throughout their relationship. She said that Depp had repeatedly thrown things at her, yanked her hair, and suffocated her. Heard secured a temporary restraining order against Depp in 2016, and then

¹⁰⁶ [Johnny Depp trial: Ten moments that defined the Depp-Heard trial - BBC News](#)

filed for divorce, seeking spousal support and a permanent restraining order. She also provided proof in the form of images of her reported injuries.

Johnny Depp heavily disputed the claims and accused Heard of being the aggressor in the relationship in retaliation. He said she physically assaulted him, including episodes in which she reportedly flung bottles and other things at him. Depp's defence team presented testimony from friends and previous partners who affirmed his nonviolent character and questioned Heard's reliability.

Legal Proceedings:

Depp and Heard's legal struggle took place in both civil and criminal courts. The divorce was finalised in 2016, with Depp agreeing to give Heard a \$7 million settlement, which she promised to donate to charity. However, the legal drama continued when Depp sued Heard for defamation in 2019 in response to an op-ed she wrote on surviving domestic abuse.

The defamation trial, which was held in the United Kingdom in 2020, became a high-profile affair. Depp, Heard, and other witnesses, including friends and staff members, testified in court. Both sides presented their versions of events, sometimes in gory detail, in an effort to undermine the credibility of the other.

The Decision and Public Reaction:

The UK High Court found in favour of the British newspaper that published the op-ed in November 2020, noting that the bulk of Heard's charges were "substantially true." The court's judgement triggered considerable public discussion, with fervent supporters on both sides.

The legal struggle, however, persisted in the United States. Depp also launched a \$50 million defamation lawsuit against Heard in Virginia, which was supposed to go to trial in 2022 but was eventually settled out of court. The details of the settlement have not been revealed.

Impact and Public Awareness:

The Johnny Depp and Amber Heard case has pushed domestic abuse against males into the public eye, emphasising the need of gender-neutral discourse on the subject. The case has

highlighted the need of giving help and resources to all victims, regardless of gender, as well as the importance of conducting fair and complete investigations in such situations.

6.2 The Greg Anderson Domestic Violence Case: Bringing Male Victims to Light

Greg Anderson's experience serves as a sharp reminder that domestic violence knows no bounds and that males may suffer physical, mental, and psychological abuse in close relationships. Despite the belief that males are meant to be strong and impervious to injury, Anderson's example demonstrates that anybody, regardless of social rank, career, or background, may become a victim.

Bringing the Silence to an End:

Greg Anderson took a brave step forward by sharing his own experience with domestic abuse, bucking conventional standards that typically deter males from coming out. Anderson helped debunk the misconception that domestic violence exclusively affects women by breaking the silence, enabling other male victims to see their circumstances and seek treatment.

Male Victims' Difficulties:

One of the most significant problems that male victims of domestic violence confront is a reluctance to disclose the abuse due to fear, humiliation, or the belief that they would not be taken seriously. Traditional gender norms and prejudices in society exacerbate the problem, making it harder for males to come out and seek treatment. The Greg Anderson case illuminates these difficulties, emphasising the necessity of providing a safe and supportive environment for all victims, regardless of gender.

Help and Resources:

The story of Greg Anderson highlights the critical need for services and support networks targeted exclusively to male victims of domestic abuse. Men's Aid and other domestic violence support organisations have been critical in giving aid, advice, and counselling to male victims, ensuring they have access to the resources they need to leave violent circumstances.

6.3 The Karan Oberoi Case ¹⁰⁷

Karan Oberoi, an Indian actor and model, was engaged in the Karan Oberoi case, which occurred in 2019. A lady accused him of rape and extortion. As the investigation continued, however, it became clear that the claims were bogus. Throughout the court processes, Karan Oberoi maintained his innocence.

Oberoi said he was in a consensual relationship with the lady who accused him. He alleged, however, that she had falsely implicated him in order to exact retribution and extortion. Oberoi claimed that the lady had subjected him to domestic abuse and extortion and threatened to damage his name if he would not comply with her demands.

Several contradictions in the woman's assertions were discovered throughout the inquiry, and her trustworthiness was called into doubt. She was found to have staged a bogus allegation against Oberoi. As a consequence, Oberoi's case received widespread media coverage, drawing attention to the problem of false charges and the difficulties experienced by males who are victims of domestic abuse.

Karan Oberoi was eventually cleared of all charges by a Mumbai sessions court in July 2019. The case highlighted the need of due process, the assumption of innocence, and the necessity for impartial investigation in sexual assault and domestic abuse cases.

6.4 The Phil Hartman and Brynn Hartman Case: A Tragedy of Domestic Violence ¹⁰⁸

Phil and Brynn Hartman's story is still remembered as a horrific example of domestic abuse. The 1998 event put attention on the frequently unseen realities of abusive relationships and the disastrous implications they may have. While every situation is different, looking into one high-profile occurrence might help raise awareness and spark dialogues about domestic abuse.

¹⁰⁷ [Karan Oberoi Rape Allegations: Complainant in Karan Oberoi Rape Case Arrested \(thequint.com\)](https://www.thequint.com/story/news/india/karan-oberoi-rape-allegations-complainant-arrested-2019-07-19)

¹⁰⁸ [The Most Bizarre Things About The Phil Hartman Case \(nickiswift.com\)](https://www.nickiswift.com/1088888/the-most-bizarre-things-about-the-phil-hartman-case/)

Phil Hartman, a well-known comedian who has been on "Saturday Night Live" and "The Simpsons," has been married to Brynn Hartman since 1987. Their apparently successful jobs and public image concealed a turbulent relationship rife with domestic abuse. Domestic abuse may occur in any socioeconomic background or occupation, according to the instance.

Brynn Hartman got into a furious altercation with Phil Hartman on the night of May 27, 1998, while under the influence of drugs and alcohol. According to reports, the dispute became so heated that Brynn shot Phil numerous times as he slept. This horrifying act of violence exemplifies the severe effects of neglected domestic abuse.

The story of Phil and Brynn Hartman exemplifies various facets of domestic abuse. It emphasises the cyclical aspect of abuse, in which tensions rise, culminating in a violent event followed by a brief time of calm or regret. Substance misuse played a part in this instance, enhancing the situation's volatility and intensity. Domestic violence may also be the result of underlying psychological causes such as power and control difficulties, unresolved trauma, and mental health problems.

Defying Stereotypes:

One noteworthy feature of this case is the challenge it offers to gender preconceptions about domestic violence. While women are often presented as victims, the Hartman case shows that males may be victims of domestic abuse as well. It serves as a reminder that abusive relationships may exist in any gender combination and emphasises the significance of recognising and responding to all types of domestic abuse.

Children's Impact:

The sorrow of the Hartman case goes beyond the death of two people. The children of Phil and Brynn Hartman were left without parents, illustrating the devastation of domestic abuse on children who watch or experience it. Their story highlights the critical need to assist and safeguard children who have been victims of domestic abuse, as well as to offer them with tools for healing and ending the pattern.

6.5 Eminem (Marshall Mathers) Case¹⁰⁹

The case of Eminem (Marshall Mathers) and Kim Mathers exemplifies intimate partner violence (IPV) against males and emphasises the need of addressing this problem. While the specifics of their relationship are mostly known via public remarks and interviews, their turbulent past sheds insight on the experiences of male IPV victims.

Eminem and Kim Mathers' relationship was turbulent, including bouts of domestic violence on both sides. Eminem has publicly described physical altercations, while Kim Mathers has admitted to participating in aggressive behaviour throughout their relationship. Their public feuds demonstrate that IPV may damage anybody, regardless of gender or celebrity.

This example disproves the assumption that males are always the perpetrators of domestic violence by demonstrating that men may also be victims. It serves as a reminder that IPV is a complicated problem that defies cultural norms and may occur in any gender combination.

Furthermore, the Eminem and Kim Mathers case underscores the difficulties that male victims experience while seeking assistance and affirmation. Men who are subjected to IPV may face scepticism, social pressure to look tough, and a lack of knowledge about accessible services. These issues may discourage male victims from seeking assistance and impede their road to healing and rehabilitation.

Furthermore, the case emphasises the significance of offering inclusive support services for all IPV survivors, regardless of gender. Male victims must have access to tailored services, counselling, and legal safeguards, ensuring they have equal access to help and the ability to break out from abusive situations.

By looking at high-profile examples like Eminem and Kim Mathers, we can increase awareness of IPV against males and help to break down the preconceptions and hurdles that keep male victims from coming forward. It is critical to promote an inclusive discussion and to build a

¹⁰⁹ [Eminem, Kim Mathers Settle Divorce – Rolling Stone](#)

supportive atmosphere that recognises and acknowledges the experiences of all domestic abuse survivors.

6.6 Narendra vs K. Meena ¹¹⁰

On 1992, the appellant husband married the respondent wife. Ranjitha, a girl kid born out of wedlock, was born in 1993. Despite the fact that the appellant stated that his wife did not live peacefully with him for even a month after the marriage. The wife had grown nasty as a result of her very suspicious temperament, and she used to raise utterly trivial but significant claims against him questioning his character and, in particular, his extra-marital connection.

By hearing the stated facts, the Supreme Court was inclined to hold that the unsubstantiated allegations levelled by the Respondent wife, as well as her threats and attempt to commit suicide, amounted to mental cruelty, and thus the marriage deserves to be dissolved by a divorce decree on the grounds stated in Section 13(1)(ia) of the Act. The Respondent wife's relentless efforts to force the Appellant to be removed from the family would be excruciating for the husband, and we believe the trial Court was correct in concluding that this constituted an act of "cruelty." It goes without saying that such threats or behaviours are cruel. Our position is supported by a judgement of this Court in the matter of *Pankaj Mahajan v. Dimple Kajal*¹¹¹, which stated that making repeated threats to commit suicide constitutes cruelty.

6.7 Indrajit Mehta vs. Parveen Mehta¹¹²

What is the meaning and connotation of the phrase "cruelty as a matrimonial offence?" is the central question, the answer to which is determined by the outcome and destiny of this case.

¹¹⁰ Civil Appeal No. 3253 Of 2008

¹¹¹ (2011) 12 SCC 1

¹¹² (2000) 126 PLR 324

The appellant and respondent in this case married on December 6, 1985. Respondent claimed that he was unable to complete their marriage due to the appellant's lack of cooperation. He further alleged that the appellant had a mental disorder that was not revealed to him before or after their marriage. When Shri S.K. Jain, a senior official of the Judicial Service, was discussing the subject with the parties in order to reach an agreement, the appellant grabbed the respondent's collar and put him in an uncomfortable position. On July 30, 1986, the appellant and several companions sought for the respondent in the Court grounds at Kaithal and, when he was not found, forcefully entered his residence and intimidated him. He sent a report regarding the occurrence to his higher officer. The respondent filed the petition in August 1996, alleging the aforementioned events and circumstances, seeking dissolution of the marriage on the grounds of cruelty and desertion.

Judgment

Unlike physical cruelty, mental cruelty is difficult to prove with diametrical evidence. The facts and circumstances of a specific situation may be used to interpret mental cruelty. Studying the facts and the environment in which the two spouses have been living might reveal a sense of agony, resentment, disappointment, and frustration in one spouse induced by the behaviour of the other. As a result, taking a specific incident of misbehaviour in isolation and then asking if such behaviour is sufficient to create mental cruelty is not the proper method.

The approach should be to consider the cumulative impact of the facts and circumstances arising from the evidence in the case under trial and then reach a reasonable decision as to whether or not the petitioner in the divorce petition has been exposed to mental cruelty as a result of the other's behaviour. As a result, the respondent's motion for dissolution of the marriage on the grounds of cruelty under Section 13(1)(i)(a) of the Act was granted, and the divorce order was issued.

6.8 THE SUPREME COURT HAS RULED THAT, AMONG OTHER THINGS, THE FOLLOWING ARE CRUELTY:

- (a) Verbal abuse and repeated suicide threats (*Narayan Ganesh Dastane v. Sucheta Narayan Dastane*)¹¹³

¹¹³ AIR 1975 SC 1534

(b) During judicial processes, making charges of "mental problems and paranoid disorder" or lunacy/insanity against the spouse and his family (*V. Bhagat v. D. Bhagat*)¹¹⁴

(c) Withholding food from a spouse and children; (*Mayadevi v. Jagdish Prasad*)¹¹⁵

(d) Making an arbitrary choice not to have a kid, refusing to cook for or live with him, and humiliating him; (*Samar Ghosh v. Jaya Ghosh*)¹¹⁶

(e) Forcing the husband to divorce his dependant parents (*Narendra v. K. Meena*)¹¹⁷

6.9 Domestic Violence or Intimate Partner Violence Against Transgender People

Transgender people are more vulnerable to intimate partner violence (IPV) and may face a disproportionate IPV burden as compared to cisgender (nontransgender) people.

- Intimate partner violence (IPV) is a widespread public health problem that may cause physical harm, mental disease, and even murder. IPV has received less attention among transgender people, whose gender varies from the sex given to them at birth. We looked for previous research on the frequency and predictors of IPV victimisation, perpetration, or treatment utilisation in transgender communities.
- Intimate partner violence (IPV) is a widespread public health issue that frequently results in physical injury, mental illness, negative sexual and reproductive health outcomes, and even homicide.

¹¹⁴ 1994 AIR 710

¹¹⁵ Appeal (civil) 877 of 200

¹¹⁶ (2007) 4 SCC 511

¹¹⁷ Civil Appeal No. 3253 Of 2008

Intimate partner violence (IPV) against transgender people is a serious issue that must be addressed. IPV, which encompasses physical, sexual, emotional, and financial abuse, may occur in transgender relationships.

- Transgender persons have specific issues that might make them more vulnerable to IPV. These difficulties may include social stigma, discrimination, a lack of legal protection, and access restrictions to support resources. Furthermore, transgender people may endure harassment relating to their gender identification, such as identity-based threats, outing, or purposeful misgendering.
- Domestic abuse happens with the same frequency and intensity in the lesbian, gay, bisexual, and transgender (LGBT) population as it does in the heterosexual one. Fear of prejudice or bias derives from society's long history of ingrained racism, sexism, homophobia, and transphobia, which hinders LGBT victims of domestic abuse from seeking aid from the police, legal, and judicial systems.

6.10 Anjana Hareesh's Case¹¹⁸

Anjana Hareesh just revealed to her family that she is gay. Her parents were forced to put her in a "de-addiction centre," where she was given a hefty course of medicine, she stated in a Facebook Live video on March 13. When she attempted to protest, the employees smacked her.

Hareesh was discovered hanging from a tree at a resort in Goa, India, precisely two months after publishing the video. She was 21 years old.

Gargi Harithakam, Hareesh's companion, said that she was not addicted to anything. "I lived with her and am aware of [whether she used drugs]." "'De-addiction centre' is just a fancy way of saying 'conversion therapy,'" she said over the phone.

¹¹⁸ [India's LGBTQ+ community face domestic violence and pressure to 'convert' | South China Morning Post \(scmp.com\)](https://www.scmp.com/news/india/article/2023/03/13/india-lgbtq-community-face-domestic-violence-and-pressure-to-convert)

- It is well established in the literature that transgender persons are often victims of discrimination.

Many sorts of violence that begin early in childhood and confront a lifetime of victimization Particularly high risks of sexual assault, physical abuse, and bullying as well as verbal abuse.

Their mental and physical health suffers as a result, resulting in physical harm, psychological suffering, and even suicide.

- In addition, a lack of social support, social isolation (or the need to hide their transsexual identity) economic hardship, and violence towards transgender persons all have an influence on their life. familial stability, friendships, and professional connections, as well as a high risk of mental illness risky sexual practises, as well as exposure to sexually transmitted infections (including HIV), with severe mental discomfort, depressive symptoms, drug abuse, and disability.
- Social prejudice is a major contributor to poor health outcomes for transgender individuals worldwide and this is especially true in low- and middle-income settings (Martinez-Guzman & Johnson, 2020). Several civic associations, like the Latin American and Caribbean Network of Trans People, have been formed.
- According to the Mexican Network of Trans Women, transgender individuals in Latin America and the Caribbean . Given the prevalence of violence and sexually transmitted illnesses in Mexico, As a consequence of societal rejection, they are compelled to participate in prostitution

In their daily lives, individuals experience ongoing violence and prejudice because of their gender identification.

6.11 HURDLES IN REPORTING MALE AND TRANSGENDER DOMESTIC VIOLENCE:

Declaring cases of male casualties and brutality is problematic. Women are more likely than males to report hostile behaviour at home. This under-reporting is most likely due to human generalisations. The male's expertise, talent, and power are valued in American society. Being a victim of abusive behaviour at home has nothing to do with this broad generalisation. Furthermore, the orientation norm causes male partners to be more supportive than women in general, with many men accepting that they can deal with situations and choosing not to report incidents. Much of the conversation around domestic violence focuses on women's victims.¹¹⁹

At a time when males are reporting incidents of violent behaviour at home, the police may dismiss the claims. Furthermore, there are considerably less services accessible to support women survivors of domestic violence than there are to help males who have endured domestic violence. Some men may be apprehensive that they may report hostility at home, try them out, and be convicted of abuse.

6.12 REASONS WHY MALE DOMESTIC VIOLENCE INSTANCES GO UNDETECTED

There are several reasons why males typically do not disclose the violence they suffer from their marriages or intimate relationships.

Male Stereotypes- Men often feel discriminated against or apprehensive about speaking out about the violence they suffer because they are afraid of being judged and stigmatised as weak and effeminate. They believe that their fight against violence would be in vain because of gender-specific laws and clauses in the Indian Constitution. They believe they have failed in their duties as protectors in raising their family.

Fear of false cases- Men often believe that disclosing the assault would create extra inconvenience, and they do not want to face the legal penalties as a result of gender-biased or

¹¹⁹ García-Moreno, Claudia; Stöckl, Heidi (2013), "Protection of sexual and reproductive health rights: addressing violence against women", in Grodin, Michael A.; Tarantola, Daniel; Annas, George J.; et al. (eds.), Health and human rights in a changing world, Routledge, pp. 780–781, ISBN 9781136688638, archived from the original on May 6, 2016, Intimate male partners are most often the main perpetrators of violence against women,

Gender-Biased Laws. They believe they must leave their families and do not want to lose custody of their children, which may be a difficult procedure.

Social and familial pressures- Most Indians remain to live with their families after marriage. Men are embarrassed to talk about violence because of this aspect. The society also plays an important role in perpetuating gender-biased legislation and attitudes against a certain gender.

Denial- Most individuals believe that domestic violence primarily affects women. And they live in denial when they learn that men may be victims of domestic abuse as well. So, in general, no one wants to speak about it.

The role of gender-biased legislation in exacerbating the problem

- Gender is a social construct that is impacted by race, caste, nation, class, culture, sexual desire, abilities, traditions, and other factors. Gender roles are quite strict in many South Asian nations, including India. This rigidity breeds gender prejudices and conventional ideas. Men who endure domestic abuse at the hands of their wives or intimate partners, these assailants, who are mainly women, are exempt to the provisions in the criminal laws relating to gender violence, i.e. The country's penal code is the Indian Penal Code.
- Only a man may be found accountable for cruelty to his wife under Section 498A of the Indian Penal Code 1860. There are no subsections or clauses in the legislation that render a woman accountable for domestic abuse. When men attempt to open up and report on the torture and physical abuse they are subjected to, no one listens, not even the police. Men who complain about marital abuse are often labelled as 'effeminate' or 'feeble' by Indian culture.

Many men believe that the situation will improve quickly, and for this reason, they do not disclose domestic abuse. Any kind of violence, physical or mental, is a heinous violation of human rights. Domestic abuse that goes unreported and unspoken may lead to separations, nasty disputes, divorces, despair, and even death.

- Because of the biased regulations in the Indian Penal Code that favour women, there are a multitude of false instances where women unjustly accused a male of rape or domestic abuse,

and the unfortunate part is that these biased laws inherently presume that a man can never be the victim. Women are not required to provide any proof of their legitimacy. The biased laws consider them to be genuine animals.

- According to a World Health Organisation survey from 2002, women consider suicide more often than men, whereas males commit suicide more frequently. Continuous exposure to violence may result in a variety of medical and mental illnesses, including depression, suicidal ideation, and chronic bodily conditions such as cancer, heart attacks, HIV/AIDS, and others.

CHAPTER - VII

SHOULD INDIA'S RAPE , SEXUAL VIOLENCE AND DOMESTIC ABUSE LAWS BE GENDER NEUTRAL?

“Women and children may be careless, but men cannot. Women and children may be careless, but men cannot.”

This passage from the film **The Godfather** perfectly illustrates India's socio-cultural structure. - the culture that elevates men to the role of family leader and hinders men from being seen as victims of sexual assaults.

Men are seen to be indestructible and sexual assault victims weak. For fear of revenge and shame, male crime victims are less likely to report. As with men, the idea of a woman committing such crimes looks absurd due to the notion that women are weak and require protection. We'll analyse how Indian patriarchy has prohibited sexual offence legislation from applying to men.

- Physiological factors are a significant impediment to proving a sexual crime against a man. Evidence of consent is supposed to be an engorged penis. This is the same as saying that a woman consented to a sexual act because she used vaginal lubrication during it. Medical literature arguing that physiological factors such as an erected penis or lubricated vagina are responses to sexual stimuli and so beyond a person's control - and thus not evidence of conscious consent for the sexual act - should be relied on.
- Some radical feminists, such as Christine Boyle, think that implementing gender-neutral laws would be detrimental to the feminist movement and the women's community, but other feminists favour male rape acknowledgment. Ideas from feminist literature will be discussed, both in support of and against legalising sexual crimes.

The Indian Constitution forbids the state from discriminating against people based on their religion, ethnicity, caste, gender, or place of birth. It also encompasses persons of both genders and provides for social fairness.

- Sexual crimes have been found as being mostly perpetrated by women in India. The fundamental argument against removing sexual crime laws is that males are more often than not the offenders.

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The Indian statute on rape relates primarily to a male offender and a female victim under Section 375 of the Penal Code of 1860. Section 354 of the Penal Code, all legislation dealing with sexual crimes take the same viewpoint.

- It states that anybody who assaults or uses illegal force on any woman with the aim to outrage or knowing that he is likely to offend her modesty faces imprisonment of any sort for a period of up to two years, a fine, or both. However, in each of these cases, only a woman is identified as the victim.

Rape is the fourth most prevalent crime in India and a major concern across the globe. Rape is often thought to be a male-on-male crime, but have we ever thought about the inverse? Rape was once assumed to be a crime done exclusively by men against women, but as time has gone, it has been revealed that other genders, such as males, homosexuals, and the transgender community, are also affected by this crime. Rape may happen to anybody, no matter their age, gender, or sexual orientation.

- Though there are many such incidents, the vast majority of them go unreported because people are scared that disclosing such incidents would throw doubt on their usefulness. Rapes against persons other than women are often unreported, therefore most people are ignorant of them. However, in order to remove such a heinous crime, it is vital that people be aware of it and that appropriate law and order are maintained. First and foremost, we must recognise that rape may occur everywhere, including schools, workplaces, prisons, corporations, coaches, and so on, and that both the victim and offender can be of any gender. solely by eliminating assumptions about sexual assaults being perpetrated solely against women can the enormity of the matter be understood.

- According to Indian Penal Code Sections 375 and 376, only males may be held guilty of rape, and only women can be the victim. The rules that regulate stalking, voyeurism, and sexual harassment are likewise gender-specific, which means that only women may be victims and only males can perpetrate the crimes. The legislation regulating acid assaults, on the other hand, is gender-neutral since it uses the phrase "whoever." The notion that a rape victim may only be a woman is the cornerstone of Indian law. This stems from the assumption that rape is exclusively a sexual act committed to satisfy the offender's/perpetrator's sexual desire. It is a frequent fallacy that women are always victims and men are always offenders, however, guys are also victims of sexual attacks and false charges. India's archaic standards governing sexual assaults and how they restrict men and transgender individuals' access to justice are serious issues that must be addressed.

As we all know, the Preamble guarantees all individuals Justice, Liberty, and Equality in terms of position and opportunity. According to Article 14 of the Constitution, the state provides equal legal protection to all people inside Indian Territory. According to Article 15, states may not discriminate solely on the basis of gender.

- It goes beyond equality and empowers women via positive discrimination in line with Article 15(3), which enables the state the freedom to pass any special legislation or regulation for the benefit of women. Article 16 advances the Preamble's objective by providing equal job opportunities to all persons. The 73rd constitutional amendment required women to occupy at least one-third of elected seats. "However, is this the real scenario on the ground? Are all of these laws being enforced, or are they being used to silence women who speak out in favour of their rights?"
- As a result, men, women, and the LGBTQI+ community are all regarded human beings, and as such, they are the main focus of the law. Furthermore, we presently consider that all of our laws are gender-neutral and do not discriminate between any genders as exceptional or the norm.

7.1 GENDER NEUTRALITY IN RELATION TO THE PERPETRATOR

The question of whether or not a woman may commit a crime has long been debated. According to Susan Brownmiller, supporters of the motion asserted that it is physiologically impossible for women to rape men, particularly in a patriarchal context. Those opposed to the proposal claimed once again that it was not physically impossible.

- Women-on-women assault became recognised in cases such as *State Govt v. Sheodayal (1956)*¹²⁰, in which the MP HC declared that a woman's modesty might be violated by another woman under Section 354 of the IPC.
- In the landmark decision of *Priya Patel v. State of M.P*¹²¹, the Supreme Court addressed the question of whether a woman may be guilty of gang rape, which was held in negative.
- By quoting Article 15, the Supreme Court ruled in *Yusuf Abdul Aziz v. State of Bombay*¹²² that women cannot be prosecuted with adultery under IPC provisions. The fact that the provision is based on gender stereotypes, which hold that women can only be victims and not perpetrators of sexual attacks, was ignored.
- Later, in *Anuj Garg v. Hotel Association of India & Ors*¹²³, a bench comprised of S.B. Harjit S. Bedi and Sinha J. proclaimed that gender stereotypes cannot be employed as a legal basis, cannot give unequal benefits, and cannot burden any one gender.
As a consequence, a long-standing restriction that prohibited women from working as bartenders for profit under Article 15(3) was removed.

7.2 GENDER NEUTRALITY IN RELATION TO THE VICTIM

It is regrettable that Indian law views rape only through the lens of the victim of rape being a woman. This presumption completely overlooks the reality that rapes and sexual assaults against guys and transgender people are just as prevalent as crimes against other people and do

¹²⁰ 1956 CrLJ 83 M.P

¹²¹ AIR 2006 SC 2639

¹²² 1954 AIR 321, 1954 SCR 930

¹²³ Appeal (civil) 5657 of 2007

not carry the same weight as attacks or rapes against women. As a consequence, there is no gender neutrality, and it should be emphasised that the punishment for such heinous conduct should be the same regardless of the victim's gender.

- Furthermore, it is often assumed that rape is only a sexual act done to satisfy the perpetrator's need for sex, which runs counter to the growing knowledge that sexual assault is not only a display of passion but also of dominance over one caste or group religion. As a result, there is no reason why men or transgender people cannot be raped or otherwise mistreated. Similarly, the precedent created by the landmark case *Vishakha and others v. State of Rajasthan*¹²⁴ safeguarded the rights of women who had been sexually abused at work, but analogous legislation for men or transgender people has yet to be considered.

7.3 REASONS FOR GENDER HYPERSENSITIVITY TOWARDS FEMALES AND INSENSITIVITY TOWARDS MALES

7.3.1 PATRIARCHY

According to the Oxford English Dictionary, patriarchy is a male-dominated community, institution, or nation. Indian civilisation is predominantly a patriarchal society in which males are expected to act in a certain way, and any deviation from this pattern results in derision from society - mostly from other men. The concept that a man cannot exhibit his feelings and cannot weep in public, that he must always be strong, and that a man feels no grief are some examples of how society wants an "ideal guy" to behave.

Even if they support gender equality, some men may feel ashamed. The patriarchal idea that men are always interested in sexual interaction undermines a man's consent to a sexual act.

Males themselves feel pressured to have sex due of preconceived views about males and sex in society, as well as the concern that refusing to have sex would make them less of a man or label them as gay.

¹²⁴ AIR 1997 SC 3011

Men's lack of perceived sexual freedom stems from the widespread belief that they can have an erection anytime they want, wherever they are, and with anyone they choose. Gender neutrality as it is now conceived is contradictory between men and women. Women are becoming common in traditionally male-dominated professions such as law, truck driving, and even wrestling in the twenty-first century. However, a man's masculinity is questioned if he displays femininity or engages in activities that are stereotypically associated with women. Therefore, modern gender neutrality treats everyone as if they were a man.

- The patriarchal culture prevents men from coming out and speaking up about sexual attacks against them. As a consequence, there is no official proof indicating that guys do become victims of sexual crimes. The need of the hour is for men to come out about similar incidents on a scale equivalent to the feminist movement in order to make sexual crime laws gender-neutral.¹²⁵

It has also been often stated that males react differently to sexual assault than women do. Ignoring male injury is a recurring issue in the literature of radical feminists. Gender neutrality in sexual offence law, according to radical feminists, would be detrimental to women's interests. These authors, however, provide no evidence of the same, or of how guys respond differently in these situations.

- Contrary to common assumption, a 1989 study conducted in the United States discovered that males behave similarly to women in sexual assault circumstances. The victim's characteristics and response were discovered to be similar. However, males found it difficult to reveal these incidents because they were fearful of being seen as weak or less of a man, or because they believed sexual assaults were predominantly a female problem.¹²⁶

7.3.2 PHYSIOLOGICAL FACTOR MISINTERPRETATION

Without digging into facts and statistics, three assumptions about sexual assaults are fair.

¹²⁵ Janet E. Halley, *Split Decisions: How and Why to Take a Break from Feminism*, (2006).

¹²⁶ Gillian Mezey and Michael B. King, The Effects of Sexual Assault on Men: A Survey of 22 Victims, 19 *Physiological Medicine* 205 (1989)

- To begin with, males conduct the majority of rapes; nonetheless, a significant minority of women commit sexual offences.
- Second, just because women are statistically more likely than men to be sexually attacked does not diminish the danger that men face.
- Third, more men and boys than we realise are victims of sexual assault. Because there aren't many documented examples, many people believe that male sexual assault isn't a serious issue. The paucity of documented events is due to a lack of laws allowing such incidents to be reported.
- A common argument used against males in sexual assault cases is that the guy had an erected penis and/or ejaculated, implying consent on the part of the man. The majority of men are confused or feel guilty since they ejaculated or had an erection during the incident.¹²⁷
- According to laboratory research, after a sexual assault, the nervous system generates a fight or flight response, resulting in increased blood flow and lubrication in vaginal areas. During a sexual assault, a person's genitals will not be unresponsive if they are terrified. The research revealed that guys accidentally obtain erections during sexual assaults. In the United States, courts have previously ruled that having an orgasm during a sexual assault is insufficient evidence of consent.¹²⁸

In this sense, it is critical to understand the relationship between body arousal and sexual pleasure. Men are taught from adolescence to think that their sexual centre is the penis.¹²⁹ In many respects, this logic leads to the conclusion that an erection is a sign of approval. A man having an erection, on the other hand, maybe the consequence of familiarity with the sexual act of penetration or other actions linked with sexual assault and is not necessarily a sign of authorization. Physical and biological processes do not reflect an individual's emotional state.

¹²⁷ Philip Sarrel and William Masters, *Sexual Molestation of Men by Women*, 11(2) *Archives of Sexual Behaviour* 117 (1982).

¹²⁸ *Curtis v. State*, 223 SE 2d 721.

¹²⁹ Steve Pokin, *Rape: When the Victim's a Man; It's happened in homes, on city streets, in bars and parks. Far more underreported than attack on women, male rape leaves many victims feeling powerless, alone and suicidal*, *The Press Enterprise*

- It has long been noticed that hanged individuals usually experience an erection after death¹³⁰. This is not a sign of sexual desire. This erection seems to be the result of a physiological response generated by a convergence of excitatory and inhibitory innervations that converge on the lumbar cord reflex centre during asphyxiation.¹³¹
- Aside from that, there have been several historical instances when men were forced to participate in sexual practices. Males in Bosnia, for example, were forced to engage in sexual contact with one another throughout the civil war. Black males in the southern United States were forced to have sexual contact with women while being beaten on their backs during the rebuilding era. While none of these acts would be conceivable without a sexually stimulated penis, describing them as sexual situations misunderstands and diminishes the settings in which these erections occur. As a consequence, whether or not physiological arousal exists demonstrates nothing biologically conclusive. Finally, an erection does not constitute evidence of authorization.

7.3.3 MEDIA GENDER STEREOTYPES

The media has a tremendous influence on people's opinions in today's environment. Males are not shown as sexual assault victims in mainstream Indian media, which fosters an unrealistic notion of the perfect man. The people's measure of masculinity remains the renowned phrase of India's most famous actor, proclaiming that a genuine man feels no pain. In Indian cinema, sexist comedy and laughter are utilised to soften the severity of sensitive issues such as misogyny.

The stereotyping and persecution of gay and transgender characters is another serious issue that the Indian media promotes. The subject of a man's molestation has also been humorously used.

¹³⁰ Harvey L.P. Resnik, *Eroticised Repetitive Hangings: A Form of Self-Destructive Behaviour*, 26 AM. J. Psychotherapy 4, 10 (1972).

¹³¹ Lisa Cardyn, *Sexualised Racism/Gendered Violence: Outraging the Body Politic in the Reconstruction South*, Vol. 100

- The Bollywood movie *Aitraaz*, in which the protagonist's boss's wife tries to sexually attack him, is the only major Bollywood film that explores the theme of sexual assault on men.
- The same is true for books. According to well-known author Claire Cohen, male rape victims are routinely feminised in order for readers to be more accepting of female offenders.¹³²

As a consequence, there is an urgent need to prepare Indian culture to welcome all genders and to question directors and filmmakers regarding stereotypical portrayals of various genders.

7.3.4 TRUTH ABOUT SEXUAL CRIME

Due to the fact that current legislations recognise women as the victims of sexual offences while ignoring the possibility that they are the perpetrators, they are no longer serving the purpose for which they were intended and are instead neglecting and harming the other genders against whom false allegations and false cases are being framed.

16.1% of 222 Indian males surveyed reported coercive sex. Despite the fact that male rape has been researched less than female rape, some figures show that guys are raped and that the prevalence is more than thought. No data exists on male sexual harassment because guys are so frightened of peer condemnation. Because a guy who is harassed by a woman is weak, but a man who is harassed by another man is weak and his machismo is questioned, the belief that men are not sexually abused endures.

- Men are disproportionately responsible for workplace sexual harassment of women, but men are also much more often targets of sexual harassment than studies or the general public assume. Many instances of female child abuse are found by mistake as a result of pregnancy, and family abuse is halted by marriage; however, the disclosure rate among men tends to be lower, and accidental disclosure becomes more unusual, leading to years of abuse.¹³³

¹³² Claire Cohen, *Male Rape is a Feminist Issue: Feminism, Governmentality and Male Rape*, (2014).

¹³³ Uma Chakravarti, *Conceptualising Brahmanical Patriarchy in Early India: Gender, Caste, Class and State*, 28 *Economic and Political Weekly* (1993), available at

- Male rape ideas make erroneous assumptions. Turchik and Edwards (2012) summarise: A woman cannot sexually assault a man; male rape only occurs in prisons; sexual assault by someone of the same sex causes homosexuality; homosexuals and bisexuals deserve to be sexually assaulted; men cannot be raped; "real" men can defend themselves; gay men are the only victims and perpetrators of rape; men are not affected by rape (or not as much as women are)¹³⁴.
- Sexual attacks that do not match the male-on-female paradigm are much more prevalent in India than one would anticipate. Goa Police recently nabbed a Delhi woman for unfairly detaining and sexually torturing a French woman.¹³⁵ While official figures are scarce, famous feminist scholars such as Laxmi Murthy agree that "men can be sexually assaulted- by men as well as by women (in rare situations)" and that "women are capable of inflicting sexual assault on males."¹³⁶
- One rationale for gender-neutral legislation is that the assumption of male dominance in society's hierarchy must be adjusted. Given this gendered history, feminists only discuss rape in the context of deeply rooted power imbalances between men and women.¹³⁷

<<https://www.epw.in/journal/1993/14/special-articles/conceptualising-brahmanical-patriarchy-early-india-gender-caste>>, last seen on 20-12-2020.

¹³⁴ Anderson, Irina and Doherty, Kathy, *Accounting for Rape*, Routledge-US

¹³⁵ Mohua Das, Goa Police Book Delhi Woman for Sexual Assault on French Woman, *Times of India* (2021) available at <<https://timesofindia.indiatimes.com/city/delhi/delhi-based-lgbt-activist-held-in-go-after-sexual-assault-complaint-by-french-woman/articleshow/81300736.cms>>.

¹³⁶ Partners for Law in Development (PLD), Comments by Laxmi Murthy to Criminal Law Amendment Bill 2000 at 3,

¹³⁷ John Stokes, India's Law Should Recognise that Men Can Be Raped Too, Scroll.in, available at <<https://scroll.in/article/676510/indias-law-should-recognise-that-men-can-be-raped-too#:~:text=To%20view%20the%20crime%20exclusively,do%20not%20fit%20this%20mould.&text=As%20Section%20375%20of%20the,victims%2C%20much%20less%20female%20perpetrators>>.

IN RELATION TO THIS:

- Gender neutrality in rape laws refers to the concept that both men and women (as well as transgender individuals) may be rape victims and offenders. It reflects current views on the nature, effect, and dynamics of nonconsensual penetrative (and non-penetrative) sex practices.

Some say that due to male dominance, Indian culture is not ready for the concept of gender-neutral laws. The accused males will utilise the legislation to file counter-complaints against female victims, therefore negating the goal of women's protection measures.

- In terms of child sexual abuse, the Indian government determined in 2007 that 57.3 percent of questioned children who claimed severe sexual abuse, such as rape or sodomy, were boys and 42.7 percent were females. According to the Delhi-based Centre for Civil Society, around 18% of Indian adult males questioned said they were persuaded or coerced to have sex. A female offender was recognised by 16%, while a male perpetrator was identified by 2%.¹³⁸

7.4 SEXUAL OFFENCES AND THE LEGAL SYSTEM

Males are not the only group that politicians dismiss in this way. Rape and sexual assault charges are levelled against transgender persons. A substantial adjustment in criminal law is required to make basic laws accessible to victims of both genders.

In *State of Punjab v. Ramdev*¹³⁹ Singh, the Supreme Court stated “*Rape is a crime against society as a whole, not only against women. It is a violation of basic human rights as well as the most important fundamental right guaranteed by Article 21 of the Indian Constitution.*”

When reading the Supreme Court's above statement, the easy conclusion is that rape is a crime against our whole civilization. Furthermore, the notion that a woman may only be a victim or survivor of rape must be eradicated. Furthermore, when homosexuality is regarded as a natural sexual orientation, there is rising concern that the gendered rape legislation will be replaced with a gender-neutral one.

¹³⁸ Philip Rumney, In Defence of Gender Neutrality Within Rape, Seattle Journal for Social Justice 481 at 481, (2007).

¹³⁹ 2009 1 SCC 421, 345

- In 2013, the Ministry of Justice in the United Kingdom revealed that around 85,000 women and 12,000 men had been raped in the previous year.¹⁴⁰
- Despite such alarming statistics, sexual assaults on genders other than women go undetected in the world's most advanced democracy. **Under Section 18(d) of Chapter 8¹⁴¹ of the Transgender Persons (Protection of Rights) Act, 2019**, anybody who acts inflicting sexual assault on a transgender person suffers imprisonment for a time of not less than six months but no more than two years, as well as a fine. This clearly displays the legislature's contempt for transgender individuals. Prejudice may be discovered since sexual assault is classed as a minor offence punished by up to two years in prison and a fine, but a similar offence against a cis-gendered woman might result in life imprisonment. Gender-neutral law included into the IPC would, as a consequence, provide equal protection to victims of sexual offences, regardless of gender, in compliance with constitutional responsibilities.
- The sexual harassment allegations, as well as the government's stance on gender neutrality, are perplexing. In light of laws that are gender-centric and require thoughtful amendment, the plight of men was highlighted for the first time in the **172nd Law Commission Report¹⁴²**, and later, by the **Criminal Law (Amendment) Bill, 2012**, "Sexual assault" should replace "rape" wherever it occurs to make the crime more gender-neutral. Only the UGC obeyed these commands. After receiving a Ministry of Human Resource Development notification, the UGC restricted school sexual misbehaviour.

"Sexual assault" was suggested to replace "rape" to make the crime more gender-neutral. Only the UGC followed these directions. The UGC limited sexual misconduct in educational institutions after obtaining a notice from the Ministry of Human Resource Development.¹⁴³

All higher education institutions will be held accountable for taking decisive action against all gender-based violence perpetrated against employees and students of all sexes, recognising that

¹⁴⁰ An Overview of Sexual Offending in England and Wales, Ministry of Justice, Home Office and the Office for National Statistics, available at <<https://www.gov.uk/government/uploads/system-offending-overviewjan-2013.pdf>>, last seen on 20-12-2020.

¹⁴¹ Section 18, Transgender Persons (Protection of Rights) Act, 2019.

¹⁴² Law Commission of India, Report No. 172 on Review of Rape Laws (March, 2000)

¹⁴³ University Grants Commission Act, 1956

female employees and students, as well as some male students and students of the third gender, are particularly vulnerable to sexual harassment, humiliation, and exploitation.

- The aforementioned regulation, together with the **Protection of Children from Sexual Offences Act of 2012**,¹⁴⁴ is a step towards gender neutrality. With the exception of Section 3 of the Act, which only covers penetrative sexual assault, the whole Protection of Children from Sexual Offences (Amendment) Act, 2019, is gender-neutral.¹⁴⁵

7.5 STATISTICS

- Because rape cannot be committed against males by definition, it is impossible to estimate the number of male survivors in India. When the Indian government investigated child sexual abuse specifically in 2007, they revealed that of questioned children, who claimed severe sexual abuse, including rape or assault. Males constituted 57.3 percent of the population, while females constituted 42.7 percent. The Centre for Civil Society in Delhi has revealed that around 18% of questioned Indian adult males reported being coerced or pushed into sex. 16% are believed to be female offenders, whereas 2% are supposed to be male criminals. The results of the survey.¹⁴⁶

7.6 FINDINGS OF THE SURVEY

Due to the lack of data on male rape in India, a survey of 222 men was performed. The summary was intentionally kept concise in order to contain information concerning views towards rape and cases of sexual coercion. While the findings are amazing, they are not unexpected. They also mainly agree with earlier findings.¹⁴⁷

- In all, 305 men completed the online survey. Its limits are that it is unknown and self-announced, yet this is also its strength. It is difficult to persuade someone to confess to being

¹⁴⁴ Protection of Children from Sexual Offences Act, 2012

¹⁴⁵ Protection of Children from Sexual Offences (Amendment) Act, 2019.

¹⁴⁶ <https://ccs.in> (Jun., 12, 2020, 22:23 hrs.), <https://ccs.in/indias-law-should-recognise-men-can-be-rapedtoo>

¹⁴⁷ Temkin, Jennifer, and Barbara Krahe Sexual assault and the justice gap: A question of attitude, Bloomsbury Publishing, 2008

raped, thus the promise of anonymity may be effective. The sample was reduced to 222 men after removing answers from respondents under the age of 18, responses from outside India, and conflicting responses.

7.7 KTS TULSI'S PRIVATE BILL

Mr. KTS Tulsi, a distinguished lawyer and Parliamentarian, presented a private bill in the Rajya Sabha to modify the criminal laws to make sexual crimes gender-neutral.

- A similar topic, gender-neutralizing sexual assaults, was tabled by the then-law minister in 2013 in reaction to the controversy sparked by the Nirbhaya rape case.
- In an interview, Mr KTS Tulsi remarked that the legislation must be balanced. "The balance has been thrown off, and gender neutrality should be applied to all sexual offences."
- Men, women, and persons of other genders may all be offenders and victims of these crimes. "Men, women, and others must be protected," says the United Nations.¹⁴⁸
This would cover both males and women, as well as transsexual people.

Furthermore, the proposal includes a new felony under rape law, as well as sanctions for "touching" without entering the victim's vagina.

- It proposes adding S375A to the IPC to punish "sexual assault," which is defined as "deliberately affecting the individual's genitals, anus, or breast, or allowing the individual to touch that individual's or any other being's vagina, penis, anus, or breast without the consent of the other person, unless such touching is done for appropriate medical reasons."

¹⁴⁸ Ambika Pandit, KTS Tulsi floats Rajya Sabha bill to make rape laws gender-neutral, TOI, July. 14, 2019

7.8 KTS TULSI SUGGESTIONS

- According to Shri KTS Tulsi, the Indian Penal Code,1860 (IPC), the Code of Criminal Procedure,1973 (CrPC) and the Indian Evidence Act,1872 should be amended to change the words "*any man*" and "*any woman*" in the sections identifying sexual offences to "**any individual or person.**" ¹⁴⁹
- By modifying the categories of the offender and victim of sexual assault from "man" and "woman" to "any individual or person," the bill takes into account not just transgender people who are regarded the 'other' sex, but also other individuals.
- This would broaden legal safeguards for women, men, and transgender people.
- Aside from other revisions, it is time to incorporate a new offence in assault statutes: punishment for "contacting or touching" with no penetration of the person in question's privates.
- The present rape law is gender oriented and only delivers justice to female victims and male culprits, hence IPC Sections 375 and 376 should be made gender neutral legislation.
- Sexual attacks against young boys under the age of 18 are protected in India by the Protection of Children from Sexual Offences Act (POCSO), 2012, but they have no legal remedy after they reach adulthood.

¹⁴⁹ Code of Criminal Procedure, 1973, No. 02, Acts of Parliament, 1973 (India)

CHAPTER - VIII

COMPARATIVE STUDY OF LAWS RELATING TO GENDER ABUSE

8.1 LAWS CONCERNING SEXUAL VIOLENCE

Rape is solely punishable for men and female victims under Articles 375 and 376 of the Indian Penal Code. Additionally, gendered stalking, voyeurism, and sexual harassment statutes need a male offender and a female victim. Acid-throwing bans do not discriminate by gender. Rape victims in India must be women. Rape is a sexual act by an offended person. However, there is a rising recognition that sexual assault is an act of power and humiliation by one social strata or religious group over another, not only love and desire. If so, Indian men are raped. The study's author wonders why sexual assault victims and perpetrators are only identified by gender. Not just caste, class, and religion divide society. Is gender identity the most important? Is seeing each one enough?

8.1.1 SWEDEN'S RAPE LAWS:

Sweden is often seen as a worldwide pioneer in gender equality and progressive laws. The government has taken a strategy that emphasises consent and focuses heavily on protecting persons from sexual abuse.

The legal definition of Rape in Sweden is provided in Chapter 6 of the Swedish Penal Code.¹⁵⁰

- In 2018, Sweden approved a new legislation that criminalises sex without consent as rape, even when there are no threats, coercion, or violence involved.¹⁵¹ Sweden no longer needs prosecutors to establish the use of or threat of violence or coercion in their cases. This resulted in a 75% increase in convictions to 333.¹⁵²

¹⁵⁰ ["6 kap. 1 § Brottsbalk \(1962:700\)](#)

¹⁵¹ [Sweden approves new law recognising sex without consent as rape - BBC News](#)

¹⁵² Batha, Emma (2020-06-22)

The present Swedish Penal Code was implemented on January 1, 1965, after being approved in 1962¹⁵³. A long-standing policy and legislative history of gender equality, as well as an established feminist movement, have resulted in various legal revisions and amendments that considerably broaden the definition of rape.

- Sweden was one of the first nations in the world to criminalise marital rape in 1965.¹⁵⁴ In 1984, homosexual actions and gender neutrality were first legalised. Having intercourse with someone when they are unconscious (e.g., owing to alcohol or sleep) was included to the definition of rape in 2005.¹⁵⁵

- This is an unofficial translation of an extract from the Swedish police website:

*Rape is one of the most severe types of sexual offences. Whoever, by force or intimidation, compels another person to engage in a sexual conduct that is severely humiliating is condemned to jail for two to six years for rape. Rape carries a jail sentence of no less than four years and no more than 10 years. The sexual act may involve intercourse, but other sexual activities due to duress or other conditions that are gravely offensive can result in a person being convicted of rape. Anyone who exploits someone who is sleeping, unconscious, inebriated or high on another drug, psychologically unstable, unwell, or otherwise in a particularly vulnerable state was guilty of rape.*¹⁵⁶

- **The following are key components of Sweden's rape laws:**

- **Consent-Based Definition:** The notion of consent is central to Swedish law, with the emphasis on whether each person actively and vocally stated willingness to participate in sexual conduct.
- **Gender-Neutral Laws:** Sweden has made tremendous measures to gender-neutralize its rape laws. The 2018 law expanded the definition of rape to include people of all genders, acknowledging that anybody may be a victim of sexual assault.

¹⁵³ ["The Swedish Penal Code"](#)

¹⁵⁴ Jo Lovett; Liz Kelly (2009). ["Different systems, similar outcomes?"](#)

¹⁵⁵ ["Prop. 2004/05:45"](#) (in Swedish). The [Riksdag](#).

¹⁵⁶ ["Chapter 6 of the Swedish Penal Code \(unofficial translation\)"](#).

- **Affirmative Consent:** According to Swedish legislation, explicit and unambiguous consent is required, which necessitates active communication between participants. The lack of consent is seen as a deciding element in assessing whether an act constituted rape.

In tackling rape and sexual assault via respective legal systems, India and Sweden have adopted different approaches. While India's amendments attempted to broaden the definition of rape and protect victims of all genders, obstacles to justice for survivors remain. Sweden, on the other hand, has been praised for its consent-based, gender-neutral approach to promoting gender equality and creating an atmosphere in which survivors are more willing to disclose events. However, both nations encounter difficulties in properly adopting and executing their laws.

8.1.2 SEXUAL VIOLENCE LAWS IN CANADA

Since the implementation of the **Canadian Charter of Rights and Freedoms in 1982**, sexual assault law in Canada has undergone significant progressive reforms. In 1983, the narrowly defined offences of rape and indecent assault were replaced with a gender-neutral hierarchy of sexual assault offences based on the Criminal Code's assault provisions.¹⁵⁷

- Prior to the adoption of the Act amending the Criminal Code in regard to sexual crimes that followed the enshrinement of The Charter in the Canadian Constitution, the rules on sexual offences were gender-specific and in conflict with Section 15(1) of the Charter. According to Section 15 of the Charter, "every individual is equal before and under the law, and has the right to equal protection and equal benefit of the law without discrimination, particularly discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability."

¹⁵⁷ Canadian Charter of Rights and Freedoms, s 2(b), Part 1 of the Constitution Act 1982, being Schedule B to the Canada Act (UK), 1982, c11

According to **Section 271 of the Criminal Code**, "Everyone who commits a sexual assault is guilty of -

(a) an indictable crime punishable by imprisonment for a duration of not more than ten years or, if the complainant is under the age of sixteen, by imprisonment for a term of not more than fourteen years, with a minimum sentence of one year in prison. ; or

(b) an offence punishable on summary conviction and punishable by imprisonment for a term of not more than 18 months or, if the complainant is under the age of 16, by imprisonment for a term of not more than two years less a day and a minimum punishment of six months."

- **Here are some significant elements of Canada's gender-neutral rape laws:**
 - **Legal Reforms:** In 1983, Canada's criminal code was updated to eliminate the necessity of evidence of resistance from the definition of rape. This reform was critical in making the legislation relevant to all genders, recognising that rape may happen to anybody.
 - **Consent-Centered Approach:** The necessity of consent in sexual relations is emphasised in Canadian legislation. It acknowledges that people must freely and voluntarily declare their permission, which may be revoked at any moment. This approach emphasises the existence of consent rather than the victim's gender.
 - **Broader Definitions:** Rape laws in Canada include a wide variety of non-consensual sexual activities, including as penetration, oral sex, and other types of sexual contact. These rules recognise that rape may occur in a variety of circumstances and include people of either gender.
 - **Supportive Measures:** Canada has also put in place supportive measures to help rape and sexual assault survivors. Specialised support services, counselling, legal assistance, and the provision of resources to help in the reporting and investigation of these crimes are examples of these.

8.1.3 SEXUAL VIOLENCE LAWS IN UNITED STATES OF AMERICA

The new Uniform Crime Report (UCR) definition of rape is -

"the penetration, however slight, of the vagina or anus with any body part or object, or oral penetration by another person's sex organ, without the victim's consent."

The new definition is more broad, more closely aligned with state criminal laws, and concentrates on the different types of sexual penetration considered rape. This term encompasses either gender of victim or offender, as well as cases in which the victim is unable to provide permission owing to temporary or permanent mental or physical incapacity, including under the influence of drugs or alcohol or due to age.¹⁵⁸

The reason for revising the definition of rape was a recent Centres for Disease Control and Prevention report, which stated that one in every 71 men in the United States has been raped or has had an experience of attempted rape, and 4.8% of men have been made to penetrate someone else at some point in their lives.

8.1.4 SEXUAL VIOLENCE LAWS IN AUSTRALIA

Rape is defined in Section 48 of South Australia's Criminal Law Consolidation Act, 1935 as -

"(1) A person (the offender) commits rape when he or she engages in, or continues to engage in, sexual intercourse with another person who—

(a) refuses to participate in sexual intercourse; or

(b) has withdrawn consent to the sexual intercourse, and the offender is aware of, or recklessly disregards, the knowledge that the other person does not agree to or has withdrawn consent to the sexual intercourse (as the case may be).

The maximum sentence is life imprisonment.

¹⁵⁸ <https://www.justice.gov/opa/pr/attorney-general-eric-holder-announces-revisions-uniform-crime-report-s-definition-rape>

(2) A person (the offender) commits rape if he or she coerces or continues to coerce another person to participate in—

- (a) sexual relations with someone other than the offender; or
- b) a sexual self-penetration act; or
- (c) bestial behaviour,

where the person thus forced refuses to participate in the sexual intercourse or act or has withdrawn consent to the sexual intercourse or act, and the offender knows or is recklessly indifferent to the fact that the person refuses to engage in the sexual intercourse or act (as the case may be).

The maximum sentence is life imprisonment.

(3) In this paragraph—

compels—a person compels another person if he or she controls or influences the other person's behaviour in ways that effectively prevent the other person from exercising freedom of choice; sexual self-penetration refers to the penetration of a person's vagina, labia majora, or anus by any part of the person's body or by any object.

According to Section 5 of the Act, "sexual intercourse comprises any action (whether heterosexual or gay in nature) consisting of or involving—

- (a) any portion of another person's body or any item penetrating a person's vagina, labia majora, or anus; or
- (b) fellatio;
- © Cunnilingus

as well as the continuance of such action."

- In Australia, rape laws recognise that victims of sexual offences may be of any gender, and both men and women can be prosecuted with these crimes. The rules also recognise that a person may be unable to provide permission owing to a variety of causes including age,

intellectual disability, or mental impairment. In Australia, rape laws recognise that victims of sexual offences may be of any gender, and both men and women can be prosecuted with these crimes. The rules also recognise that a person may be unable to provide permission owing to a variety of causes including age, intellectual disability, or mental impairment.

8.2 LAWS CONCERNING DOMESTIC VIOLENCE

A Comparison Of Domestic Violence In The United States, And India

Domestic violence occurs in numerous cultures across the globe and affects people at all levels of society; in any event, indicators of poor income (such as unemployment and low salaries) have been identified as risk factors for critical levels of violent behaviour. I'm comfortable in a few topics. According to the Bureau of Justice Statistics in 1995, women report six times higher visible levels of private violence than males in the United States. However, research has showed that men are less likely to borrow to report abuse in similar cases.

Although some sources claim that same-sex couples face domestic abuse at the same rate as hetero couples, other sources claim that domestic violence against gay, lesbian, bisexual, and transgender persons is widespread but underreported.

- According to data published in 2004, the incidence of aggressive behaviour in domestic abuse against Indigenous women in Australia may be greater than the rate for non-Indigenous women.
- According to the results of the 2006 Australian Bureau of Statistics Personal Safety Survey, 31% of women who survived the actual assault were attacked by individuals who were in the past or in the past. 4.4% of the guys wounded were assaulted by a prior or past victim. Men made up around one-third of those who had encountered violence as a consequence of their continued practise since the age of 15, while women made up 70%.

- Most archaic social systems considered women to be physically and psychologically inferior to men. Throughout much of ancient Greece and Rome, the females had little rights. Relationships were formed, but the women had no property rights and were unable to attend school. Yin and yang logic backed the notion of women's mediocrity in ancient China. The yang (man) has always dominated the yin (female). China has also developed one of the most repressive traditions of restricting women's feet, making them ungainly and reliant on family and labour. According to the Hindu rules of Manu as established in the Manusmriti, women conformed to male members of the family, marriage between widows was forbidden, and the act of Sati, a really horrible practise, was sanctioned by the law. Wearing bracelets can sometimes regarded as wearing chains. A married woman had practically limited independence under English customary law; she retained no alternatives for her property after marriage. Women and children were thought to be a man's property throughout the early history of the United States.
- In the long term, as traditional men's-centered norms and rules were more thoroughly embedded, women's lives became more constrained and persecuted. Most of the women were still forbidden education, and their life centred on housework and child care. In reality, we observe this practise in a huge number of households nowadays. This article focuses on the usage of advice and rules in the United States of America, the United Kingdom, the European Union, and India.
- **THE THIRD GENDER :**

In obsolete use, the term "Orientation" involves persons. Regardless, society has just lately begun to recognise transgender people (Hijras). This is also referred to as the third orientation. The word "fairness of orientation" refers to the fact that all persons, regardless of orientation, will be treated with balance, fairness, and reasonableness, and will not be victimised because of their orientation. Overall, it is homogeneity.

- **WORLD CENTRE FOR GENDER JUSTICE**

Equivalent collaboration between men and women in both financial and social situations, as well as men and women who gain equally from social order resources, is vital to attaining fairness of orientation.

- UNIFEM (United Nations Development Fund for Women) was established in 1976 to give women with specialised and monetary assistance. The UN General Assembly enacted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979. It is shown in several places as an act of global privilege for women. It is critical that the United States, as the most developed nation, does not confirm this spectacle. The Decade for Women (1976-1985) and four international conventions on women (between 1975 and 1995) largely helped to raising awareness of the concerns and duties of orientation correspondence and equality of orientation.
- The United Nations General Assembly designated UN Women as the United Nations Entity for Gender Equality and Women's Empowerment in July 2010. In doing so, UN member states have taken an important step towards furthering the Organization's objectives of gender equality and empowerment of women. Aside from that, the Commission on the Status of Women, an ECOSOC worldwide strategy developing organisation, is completely committed to the equality of women's guidance and progress.

To counter and rate partial states and respect the performance of guidance equality, the UNDP promoted the two most essential guidance equity records: the Gender-Related Development Index and the Gender Empowerment Measure. The Gender Development Index ranks India 113th, the United States sixteenth, and the United Kingdom ninth.

8.2.1 DOMESTIC VIOLENCE IN THE UNITED STATES

Domestic violence is a kind of domestic violence in the United States. Although abusive behaviour in the home is often associated with intimate contact, it may also be indicative of other types of family violence, such as violence against a kid, child against parent, or violence

amongst members of the same family. Legal and non-governmental organisations see it as a serious societal problem, and the US Congress has passed many Acts of Violence Against Women in an attempt to stop the trend.¹⁵⁹

Harassment from abusive behaviour at home extends beyond sexual orientation and orientation. Women are more likely to be victims of domestic violence, whereas males are more likely to accept injuries or falls as a consequence of occurrences.¹⁶⁰

Men, on the other hand, are more prone to depend on violent behaviour at home in big numbers. , remembers genuine instances of violence. Significant numbers of LGBT couples encounter abusive behaviour in domestic relationships.¹⁶¹ Domestic violence is more common among socially and financially disadvantaged groups in the United States than in other groups. For example, almost 60% of Native American women are physically abused by their partners or marriages throughout their lives.

The Civil Rights Act of 1964 and the Equal Pay Act of 1963 guarantee that equal labour opens doors and that sex separation is prohibited. The Supreme Court has ruled that improper behaviour constitutes a kind of sexual separation.

The Family and Medical Leave Act of 1993 permits any worker, male or female, to take up to 12 weeks of maternity or childcare leave each year.

- The Supreme Court's ruling in *Roe v. Wade*¹⁶² sought to address the contentious subject of abortion, which is now legal in every state. He confirmed that every woman has the right to self-insurance, and that early termination comes within the category of the right to safety. Her decision should be free of an unreasonable legislative pause in such an important topic.

¹⁵⁹ When Men Murder Women: An Analysis of 2009 Homicide Data" (PDF). Vpc.org. Archived (PDF) from the original on 26 November 2018. Retrieved 31 December 2017

¹⁶⁰ Tjaden, Patricia; Thoennes, Nancy (November 2000). "Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women". National Institute of Justice, United States Department of Justice.

¹⁶¹ Malcoe, LH; Duran, BM; Montgomery, JM (2004). "Socioeconomic disparities in intimate partner violence against Native American women: a cross-sectional study

¹⁶² U.S. Supreme Court *Roe v. Wade*, 410 U.S. 113 (1973)

- The Violence Against Women Act of 1994 made domestic violence illegal, seeing it as a breach of women's social equality and allowing them to sue for damages. The most remarkable aspect is that the traditional honour of "marital resistance" has been abandoned. Currently, investigators may encourage abused wives to argue against husbands who commit heinous crimes.

One of the most underappreciated infractions is aggression. Offending assailants' penalties vary depending on the victim's age, weapon used, sexually transmitted illnesses and pregnancy, and so on. The usual sentence is ten years in jail. Of course, in the United States of America, marital violence is unlawful under any circumstances.

CHAPTER IX

CONCLUSION AND SUGGESTIONS

As the previous legislative framework discussed above shown, law had a maleness to it. For many years, it has overlooked and neglected the suffering of women and sexual minorities. A close study of various legislation reveals that women have traditionally been considered as subordinate and dependent.

While conversations about gender prejudice in criminal law often centre on women, it is important to recognise that biases may equally harm males. Gender biases in criminal justice systems across the globe have resulted in uneven treatment and challenged the concept of justice for everyone.

It is past time to modify the definitions of victim and offender in Indian law to be gender neutral. To begin, it must be recognised that gender neutrality does not imply that the law is indifferent to any gender or that the distinction disappears, but rather that it is more sensitive to the needs, functioning, and conduct of all genders across spectrums and paradigms.

Second, the argument that gender neutrality in rape and sexual abuse laws would enable males to abuse them by filing counter-complaints, prohibiting women from reporting sexual crimes to authorities more than ever before is untrue. Every law has the possibility of legal misappropriation, but this should not prohibit the government from enacting it. Instead, they should argue for a more gradual approach to establishing gender-sensitive policies that get us closer to the equal society envisioned in Article 14 of the Constitution. Extending the concept of victim and perpetrator to encompass all genders will only increase the reach of justice by removing gender stereotypes in law enforcement. Furthermore, the concept of "Romantic Paternalism," which is entrenched in the Constitution and labour laws, should be repudiated since it has continuously favoured one gender and hampered its empowerment. To emphasise their point, more women and sexual minorities are needed to serve as legislators, lawyers, judges, and politicians.

While the regulations in the statutes look retrograde and absurd, one must also realise that the notion of transgenderism is still in its infancy, and it will take a significant amount of time and social reconditioning for society to become more accepting of the third gender. Nonetheless, reforms are urgently needed, and several efforts are being launched to accelerate the process of gender neutrality in legislation.

- Even after 6 years of legal recognition, a public interest litigation (PIL) was filed before the Supreme Court in 2020 to emphasise the absence of punitive legislation to protect transgender people from sexual assaults. Advocate Deepak Kansal filed the petition, which named the ministries of law and justice, as well as social justice and empowerment, as parties.¹⁶³
- According to the PIL, "despite the Supreme Court's 2014 recognition of transgender/third gender as "persons" falling under the ambit of Article 14 of the Indian Constitution," they do not enjoy equal legal protection in respect to sexual assaults.
- To conclude, the trans community, like women, is an oppressed and vulnerable class that is subject to sexual assault and harassment due to social power relations, hence rape and other sexual crimes legislation should have been gender-neutral. Gender parity must include preserving people's constitutional right to protection from sexual assault. The criminal law handles all sexual assaults equally since women, men, and transgender people may be victims and perpetrators.

9.1 THE CONSEQUENCES OF GENDER BIAS AGAINST MEN

Biases within the criminal justice system lead to underreported crimes perpetrated against males. Fear of shame, scepticism, or revenge hinders male victims from coming forward, resulting in a distorted picture of the real scope of gender-based violence.

Gender prejudice in criminal law may have serious psychological consequences for male victims. Isolation, guilt, and an unwillingness to seek treatment may result from their denial of

¹⁶³ SC Seeks Centre's Reply on PIL for Equal Protection of Law to Transgenders in Sexual Offences, The Indian Express,

their experiences and limited routes for support. This may worsen mental health issues, frequently with long-term implications.

Reduced faith in the Justice System: Gender inequalities undermine faith in the criminal justice system's fairness and impartiality. When males believe the system to be biased against them, they lose faith in obtaining justice and perpetuate emotions of unfairness and estrangement.

- In conclusion, the researcher attempted to investigate the necessity for a gender-neutral rape and domestic violence legislation in India. The first chapter provides a summary of the research article, including the questions that the researcher is attempting to answer, the research technique used, and the hypothesis.

The first feature, gender neutrality with regard to the victim, emphasises the scope and frequency of male and transgender sexual abuse in India.

The researcher goes on to address the opposing viewpoints on total gender neutrality for both the criminal and the victim. The patriarchal mindset of Indian culture and the harmful effects on female victims are the most prevalent arguments against total gender neutrality. On the contrary, proponents of total gender neutrality depend on the right to equality and the societal shame associated with male rape. After considering all viewpoints, the researcher concluded that, although sexual assault against males and transgender people must be handled, it must not create a hostile atmosphere for female rape victims. We must endeavour to build an egalitarian society and work towards gender-neutral legislation.

However, given the current scenario and treatment of women in India, it would be unwise to substantially modify the rape laws to gender-neutral legislation. We must go in little steps.

As a result, as proposed by the Verma Committee, the rape statute must be modified to include the victim's gender while keeping the offender gender specific.

9.2 As A Result, The Results And Suggestions May Be Summed Up As Follows.

- 1) There is no denying the occurrence of male and transsexual rape in India.
- 2) The direction in which we must aim is gender-neutral rape legislation.
- 3) However, the fear of the legislation being abused complicates matters. In this case, we must attempt to balance the rights of all identities.
- 4) It is obvious that we need a legislation that, on the one hand, protects all identities, i.e., men, women, and the transgender population, from sexual abuse while also not creating a harmful atmosphere for women.
- 5) The Justice Verma Committee Report proposed a compromise method to make the victim gender inclusive while keeping the offender gender specific. This protects the transgender community and male victims of gay rape. At the same time, there is no danger of counter-complaints or discrimination towards women.
- 6) Gender-neutral laws in caste and communal disputes are urgently needed. In such cases, all other identities with which a person is identified trump gender identity. In terms of incarcerated sexual assault, it must be acknowledged that gay rape is the norm in Indian jails, and victims must get justice.
- 7) In circumstances of gang rape and abetment to rape, the perpetrator must include a woman. Women shall be considered as offenders in instances of gang rape and abetment to rape in circumstances of exacerbated types of rape, such as war crimes, caste and communal disputes.
- 8) Amendments should be made to the Indian Penal Code,1860 (IPC), the Code of Criminal Procedure,1973 (CrPC)16, and the Indian Evidence Act,1872 to ensure that the words "any man" and "any woman" in the sections identifying sexual offences in the laws are changed to "any individual or person."

- 9) By changing the definitions of the perpetrator and victim of sexual assault from "man" and "woman" to "any individual or person," the measure considers not just transgender persons who are considered the 'other' sex, but also other sexual individualities.
 - 10) The term rape should be replaced with more gender neutral term such as 'Sexual Violence' or 'Sexual Assault'.
 - 11) The gender neutral definitions of sexual violence provided under sections 3, 5, 7, 9, 11, 16, 18 of The Protection Of Children From Sexual Offences Act, 2012 should be adopted in Indian Penal Code by making suitable amendments.
- Despite the fact that contemporary court trends have witnessed a change in the receipt of domestic abuse cases filed not just against males but also against women. Women have begun to use legislation that benefits them as a weapon to harass and extort money from male victims and in-laws.
 - Many other High Courts have now taken notice of the abuse of women-centric laws in favour of women. The courts are now hearing "domestic violence" claims from women as well. Nonetheless, the statute remains untouched. The present situation necessitates a reform in the statute itself. The legislation's name stays the same as "Protection of Women from Domestic Violence." Why just 'women' and not men is a subject for our politicians to consider?

9.3 SUGGESTIONS TO ADDRESS DOMESTIC VIOLENCE AGAINST MEN AND TRANSGENDERS

1. The legislation itself should be revised to address both women and men as aggrieved and victimised parties. The term "women" should be replaced with "intimate partner," which includes both men and women as "perpetrators" and "victims" of domestic abuse.
2. In a culture that typically focuses on the individual, it is important to recognise that, although women are generally the victims of domestic abuse, a few males are also victims.

3. The most crucial aspect of understanding why individuals vary. Not all men are created equal. One must discover some form of harmony and remedy the error; in connecting, one should not assume men to be like men.

4. Tolerance, celebration, and correction are related to righteousness. To aid the whole community, the shackles of the man-centric grasp must be broken. We must meet the demands of men's psychological and emotional proclivity in the same way that we address the needs of women's intensity as emotional and weak.

5. Under Section 15 (3) of the Constitution, special instances were permitted, and this exception has become the rule! As a consequence, states are rejecting Article 14, Section 15 (1), and Article 21 of the Constitution on gender equality, and, as a result, are approving and exposing female genital mutilation to women while creating oppression and violence. Law that is biased against males has become the norm.

6. Public authorities should ensure that males are seen as an important component of society, which is not reflected in Indian common law. When it comes to practice-based practises, only the NCW (National Commission For Women), which concentrates on women, is used as a litmus test, while men's interests and concerns are overlooked. Dealing with men's troubles and concerns requires impartial control, a holy body, or conversation.

7. When completed, these simple but crucial and prudent tasks will have two key outcomes: institutional confirmation of domestic abuse and openness regulatory aid. As a result, males will be more willing to report any maltreatment. Additional complaints will be filed, and correct and trustworthy information will be accessible for future reference here.

8. The most delicate issue to investigate is usually aggressive behaviours in the household. Abuse in the house includes any sort of physical, verbal, profound, or other maltreatment by her/his spouse or family members. The shifting factors that might spark wickedness inside the four walls of the dwellings should be studied with prudence and astuteness as the West.

Proper reporting without prejudice and gender-neutral regulations might save a family from the detrimental impacts of growing up in a violent environment. However, the rules that now

apply to victims of 'domestic abuse' are crucial for controlling maltreatment, but the scope should be widened, greater punishment should be permitted, and the person in issue should be guaranteed justice.

INDIA's current law is fully one-sided and operates in favour of women, while men's important and fundamental rights have been violated. Something more is now required; individual understanding to eradicate this biased and one-sided regulation; at that time, society will be conquered by this malevolence.

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