

STATUTORY SILENCES: EVALUATING GENDER NEUTRALITY OF RAPE LAWS UNDER BHARTIYA NYAYA SANHITA, 2023

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Abstract

The introduction of the new criminal laws, Bhartiya Nyaya Sanhita, 2023, Bhartiya Nagarik Suraksha Sanhita, 2023 and Bhartiya Sakshya Adhiniyam, 2023, to make changes in the colonial era provisions and on the lines of strengthening law and order while making existing laws relevant to the contemporary situation have neglected the most coeval changes which was expected of them, making sexual offences, especially rape, gender-neutral. Since rape laws are typically written in a binary paradigm, they frequently miss important aspects of sexual violence and its diverse effects on a range of gender identities. According to studies, 53% of Indian children are sexually abused, and a sizable percentage of these victims are boys (National Study on Child Abuse, 2007). Because of social stigma, legal invisibility, and victim-blaming anxiety, sexual violence against men and transgender people goes glaringly underreported, according to data from the National Crime Records Bureau (NCRB). The necessity for gender-neutral rape laws which acknowledge that anybody can be impacted by sexual violence, regardless of gender is examined in this paper. Through an analysis of current legislative frameworks, we discern innate prejudices that marginalize victims who identify as non-binary, transgender, and/or masculine, thus sustaining a cycle of invisibility and inadequate legal protection. This paper promotes comprehensive changes that reinterpret the legal definitions of rape to include all genders, guaranteeing survivors; fair access to

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justice and support. By examining case studies, we show how gender-neutral laws can promote a more equitable and inclusive society. This highlights a crucial gap in the quest for justice for all survivors of sexual violence.

Keywords: gender neutral laws, Bhartiya Nyaya Sanhita, rape, dignity, LGBTQ+

Introduction

When it comes to offence of rape, the legal position in India and around the world has historically centered on men as the perpetrators and women as the victims. Rape of a male has long been a sensitive subject, and the patriarchal nature of society has made it difficult for both the criminal justice system and society to recognize it. This is in spite of the fact that sodomy of males by men as war crimes have been documented in world history since time immemorial. (Sivakumaran, 2007)

News relating to a 23-year-old man who allegedly committed suicide hours after he was gang-raped by four men, has brought attention to the Bharatiya Nyaya Sanhita, which excludes Section 377 IPC that address rape of men and transgenders. (Bharti S, 2024)

Recent years have seen an increase in the demand for gender neutrality in rape laws, which has led to an examination of the prevailing laws. In general, the presumption is that the victim is a woman and that the sexual assault is committed by a male. However, it's crucial to think about whether this binary approach truly promotes justice as societal standards shift. Discussions on equality and justice are sparked by the contentious issue of gender-neutrality in rape laws. Because it recognizes that both men and women have the capacity to commit crimes and become victims, proponents of gender neutrality argue that drawing attention to the act itself promotes equitable treatment. They contend that unbiased court procedures are ensured by a gender-neutral approach. On the other hand, opponents argue that gender specificity is necessary to address power imbalances in society, and cite the historical context of violence against women. According to some feminists such as Catherine Mackinnon, Christine Boyle and Florence Rush, gender-neutrality is a response to the feminist movement and its adoption would limit women's rights. Given that well-known feminists like Susan Brownmiller and Rosemarie Tong have long argued for the acceptance of male rape, this is unconventional. (Brownmiller, 1975)

India's legal framework for addressing sexual crimes has

undergone significant scrutiny and transformation over the past decades. One of the pivotal discussions in recent times has been the move towards gender-neutral rape laws. This shift seeks to provide an inclusive legal environment that recognizes and addresses sexual violence irrespective of the gender of the victim or the perpetrator. (Sreenanti, 2013) Understanding the need, implications, and potential impact of such legislation is crucial for fostering a just and equitable society

Notion of Gender and Gender Neutrality

Some feminists distinguish sex from gender by basing sex difference on biological criteria and gender difference on social and cultural criteria. "Gender is the social organization of sexual difference" (Scott 1988). As distinct from sex, which is a personal biological factor based on nature, the image of gender surpasses mere distinction between women and men and represents socio-economic, cultural and psychological factors that make one class stronger over the other. (Avasthi and Shrivastava, 2001) It is not entirely accurate to assume that a person's gender corresponds to their biological sex. The term "gender" or "gender identity" as it is commonly used, refers to a person's mode of self-expression, which may differ from their biological sex. The term "biological sex" often refers to the gender assigned at birth, which might be intersex, male, or female. Gender identity, on the other hand, refers to the way a person displays their own sense of gender, independent of their biological sex.

On the other hand, the practice of employing language that does not discriminate based on one's sex or gender identity is known as gender neutrality. Put more simply, it's the manner of not differentiating or discriminating against through words, actions, regulations, laws, policies, etc. the gender identification or sexual orientation of someone who has already experienced bias or preconceptions.

Social Construction suggests that gender roles, identities, and social norms are created by society rather than being biologically determined. It challenges *gender essentialism*, which assumes that men and women have fixed, natural characteristics due to which they acquire their standing in the society and according to which the laws are made. Based on this concept, gender norms are primarily socially produced and are also defined within the framework of different social relationships as well as male and female social orders. In addition to representing individuals with varying gender identities and sexual orientations, such gender-neutral terminology may assist

include gender inclusion into the legal requirements that are sorely required in the modern world.

Neutrality in rape legislation ensures that the judicial system does not assume that men are perpetrators and women are victims, allowing equal justice for males, LGBTQIA+ individuals, and others. This approach recognizes diversity and is crucial in delicate situations like rape, as equality often ignores it, potentially excluding some victims. Neutrality is far more crucial in delicate situations like rape to guarantee justice for everyone.

Historical Evolution of the Offense of Rape

The ancient civilizations saw the development of law from social customary practices. These practices transformed into strict regulations for governing the community, eventually evolving into the laws of the land with prescribed penalties for non-compliance. Many marriage-related personal laws originated as customs and traditions followed by specific communities before gaining recognition as legal provisions. Similarly, laws against the Sati system and caste system were established in response to societal needs. In short, it would be accurate to say that laws have a strong foundation in social and historical contexts.

Traditionally, rape laws in India have been heavily gendered due to their origin from British laws. Before 2013, the Indian Penal Code (IPC) Section 375 defined rape in a manner that assumes the victim is always female and the perpetrator male, as it dealt only with penal vaginal non-consensual sexual intercourse. This perspective reflects a societal view that primarily acknowledges women's vulnerability to sexual violence, often overlooking the experiences of men and transgender individuals who may also face similar atrocities.

Definitions of phrases like “domestic violence” and “sexual violence” have the ability to condemn certain behaviours while ignoring and implicitly supporting others. The definitions of these terms have an impact on how individuals categorize, justify, assess, and internalize their own experiences. In addition, the definitions of these terms convey numerous assumptions about power and coercion, sexuality, and gender. (Muehlenhard *et al.*, 1992)

The concept of male-to-male rape is uncommon in India. but in the UK, the offence of rape includes consensual intercourse with man or woman, making it gender neutral. The 172nd Law Commission of India considered this aspect in detail and recommended amendment of the definition of rape by replacing the word “sexual assault” in the place of “rape”.

In the 1996 Delhi High Court case *Sudesh Jhaku v. KC Jhaku* (1998), Jaspal Singh, J. brought up the question of gender neutrality in rape laws for the first time. The Court decided whether non-penetrative sexual actions might be included in the pre-2013 definition of rape. In this matter the Court also expressed an opinion on the matter of gender neutrality by going beyond its authority. As Singh, J. held that the requested relief could not be awarded by a court but rather only by a legislative revision, he proceeded to express his desire for a gender-neutral definition of rape.

The Law Commission of India in its 172nd report (2000), proposed to amend the definition of rape. Till now, carnal intercourse against the order of the nature with any man was termed as an unnatural offence and was punishable under Section 377 Indian Penal Code, 1860. The Central Government rejected the idea, maintaining that women could only be victims and men could only be perpetrators.

The Central Government filed an affidavit against the High Court of Delhi's 2018 Public Interest Litigation (PIL), arguing that the statute violated Articles 14 and 15 of the Indian Constitution. The High Court was ordered to maintain the definition of rape under section 375 of the Indian Penal Code. The Ministry of Home Affairs submitted against the PIL, and directed the High Court to leave the definition of rape untouched giving the reasoning that the section was enacted to provide protection to the women with a recent increase in sexual offence against women (Singh, 2019). In *Vijay Jadhav vs. The State of Maharashtra and Ors.* (2019), the Supreme Court voiced its disapproval of the Central government's proposed gender-neutralization of rape.

The landmark *Nirbhaya* case in 2012 catalysed nationwide protests leading to amendments in the earlier criminal law through the Criminal Amendment Act, 2013. These amendments led to the expansion of the definition of rape and enhanced penalties but continued to maintain a gender-specific framework. However, the evolving discourse on gender and sexuality has highlighted the limitations of such an approach, emphasizing the need for laws that are inclusive of all genders.

KTS Tulsi, member of the Rajya Sabha, submitted a private member bill in 2019 with the goal of amending the provisions of the Indian Penal Code. The bill, known as the Criminal Law (Amendment) Bill, 2019, aimed to penalize criminals regardless of their gender or sexual orientation and highlights how victims of other sexual orientations suffer from the narrow application of such laws because it prevents them from recognizing their victimization. Nevertheless,

the bill has not yet been passed into law and is still pending in the parliament. (Pandit A. 2019).

Through recent development in the rape theory, it has been stated that in the present time and era, rape is not only about sexual release or sexual gratification but also about control, humiliation, demonstrating power and supremacy over another person (Filipoyic, 2013).

The Contours of Rape among Genders

Over the past few decades, the idea of gender neutrality in rape has had a considerable impact on the legislation of those nations that have significantly reformed their rape and sexual assault related laws. To comprehend the requirements of gender-neutral rape laws, it is necessary to examine the definition of rape from three different angles.

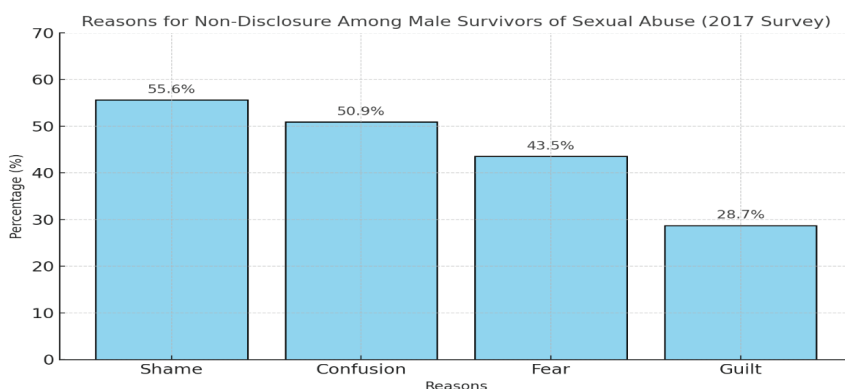
I. Male on Male Rape

Coercive man-on-man sexual relations in India were made illegal under Section 377 (Sivakumaran, 2007) of the Indian Penal Code because they violate the natural order of things. It is astonishing that in India, voluntary sexual encounters between gays and male-on-male rape are linked. It is critical to recognize the difference between consenting and coercive sexual behaviours. Section 377, which used to prohibit coercive sexual encounters between men, did not, however, specify a minimum penalty.

A survey conducted in 2017 among 160 male survivors of sexual abuse by Mumbai-based activist Insia Dariwala revealed that 71% of men surveyed said they were abused when they were children, 84.9% said they had not told anyone about the abuse. The primary reasons for this were shame (55.6%), followed by confusion (50.9%), fear (43.5%) and guilt (28.7%). (Chatterjee R, 2018)

The three member Verma Committee, 2013 proposed that the definition of victim be changed to include gender inclusiveness, meaning that the rape statute should cover sexual assaults against men in addition to homosexuals, transgender, and transsexual people. However, the 2013 amendments failed to include the recommendation.

The concept between institutional disregard for the problem and society's lack of acceptability of male rape is another issue brought



up by the idea of categorizing abusive behaviours as rape. The notable failure of the inability of most legal system jurisdictions to admit rape that does not fall into the male-on-female paradigm may have also played a role in society's unwillingness to recognize male sexual victimization. It has been stated that, when it comes to male rape, there is still a widespread perception that either males cannot be raped or that, if they can, rapes of men are so uncommon that they are considered freak events.

II. Female on Male Rape

Many who believes that women raping men is not a problem in society emphasized that in the entire history not even one case of a woman raping a man has surfaced in India. (Flavia Agnes ,2002). According to this rationality, there have never been any instances of women raping males. Until there is solid empirical proof that women have raped males, the law cannot be rendered gender neutral. Though female on male rape is one of the most under-researched in comparison to all the other types of sexual assault and sexual violence. (Fisher, 2013)

A provocative Stanford university study titled 'psychology of men and masculinity' states that there are several 'myths' that often lead to the perception that male rape is not a 'real' phenomenon. These include beliefs like men cannot be raped, "real" men can defend themselves against rape, men are not affected by rape (or not as much as women), a woman cannot commit a crime on her own or assist another woman in committing one (Turchik and Edwards, 2012). A female can be sexually assaulted by another female via oral sex, strap-ons, digital manipulation, or other foreign items. Because

of a number of factors, including police hostility, fear of coming out to family and friends as lesbians or bisexuals, a dislike of being labelled as such, and a belief that society and the general public do not take female-on-female rape seriously, the crime of female on female is underreported.

In *State Govt. Madhya Pradesh v. Sheodayal*, (1956) the High Court was of the opinion that the modesty of a woman can be outraged by another woman under the purview of Section 354. Though the question as to whether a woman can commit gang rape was dealt by the Supreme Court in the case of *Priya Patel v. State of M.P* (2006) in which the Hon'ble Supreme Court held that

“a woman cannot be said to have intention to commit rape. Therefore, a woman cannot be prosecuted for commission of gang rape.”

Additionally, in the recent *State of Rajasthan v. Hemraj* (2009) case, which had facts similar to those of the *Priya Patel* case, the Divisional bench of the Supreme Court upheld the ruling in *Priya Patel* and cleared Smt. Kamla solely on the basis of her gender.

Indian Criminal Law traditionally defines rape in a manner that does not account for female perpetrators. However, sexual assault laws are evolving, and there is a growing recognition of various forms of sexual violence that can occur between women.

III. Rape of LGBTQAI+ community member

The male-on-female paradigm often suppresses the identities of transgender individuals, leaving them out of rape theories. This leads to laws forcing victims to choose between seeking justice and identifying as a certain gender. Modern culture must break away from these outdated ideas, as the transgender population challenges traditional sex and gender concepts, highlighting the need for a more inclusive approach.

The Supreme Court's ruling in the *NALSA v. Union of India* (2014) unveiled new facets of society and the legal system. Transgenders were acknowledged as “persons” under Article 14 of the Indian Constitution. This action was taken to provide them with equality and end the discrimination they were facing.

The transgender population is somewhat protected against sexual violence by the Transgender Persons (Protection of Rights) Act, 2019, although BNS has various provisions regarding the punishment for sexual abuse: imprisonment for a minimum of seven years, which may not exceed ten years; life imprisonment; life imprisonment for life;

and in rare cases, the death penalty. Still, the LGBTQ+ community, which was granted decriminalization as a result of the *Navtej Singh Johar* (2018) case, does not enjoy the same protection.

It is important to remember that the Supreme Court in *NALSA* did not issue any directives that dealt with rape law. However, because the ruling represents an institutional change in the perception of gender as a social construct, its ramifications are significant in a number of settings. Legal protections against rape and other forms of sexual violence for the LGBTQ+ community have seen significant advancements, particularly following landmark court rulings and evolved societal attitudes. However, there remain gaps and challenges in fully safeguarding LGBTQ+ individuals from sexual violence.

Therefore, it will be pointless to interpret the aforementioned judgment as merely theoretically acknowledging the transgender population as a third gender while ignoring the suffering, prejudice, and injustice experienced by them.

The Case for Gender Neutrality in Rape Laws

Gender-neutral laws acknowledge that transgenders, men, and boys can all be victims of sexual assault. This acknowledgement is crucial to debunk the myth that rape victims are exclusively women. Sexual abuse and assault experienced by the transgender and LGBT community are emphasized in various reports, including the 1991 AIDS Bhedbhav Virodhi Andolan report and the 2003 Karnataka chapter of the People's Union for Civil Liberties report. Gender-neutral legislation can help society question and alter long-standing beliefs and stigmas related to male and transgender victims of sexual assault. These laws align with constitutional mandates and uphold international human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Gender Neutrality in Rape and Bhartiya Nyay Sanhita 2023

Over the past forty years, the idea of gender neutrality in relation to rape has gained traction in those jurisdictions where substantial legal reforms pertaining to sexual assault and rape have taken place. The definition of rape, if made to encompass both male victims and female perpetrators, will be a characteristic of gender-neutral developments. They are termed "neutral" as they view both men and women as potential rapists and victims.

In the case of *Bodhisatwa v. Subhra Chakraborty*, (1996) the Supreme Court was of the opinion that rape “is a crime against basic human rights and is also violative of the victim’s most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21.” Thereafter, in the case *Railway Board v. Chandrima Das*, (2000) the court emphasized that rape “is not a mere matter of violation of an ordinary right of a person but the violation of Fundamental Rights which is involved.” These incidents, nevertheless, have been much too rare to signify a change in the way the offense is understood institutionally. Even the rulings in *Bodhisatwa* and *Chandrima Das* were made in deciding who was liable for compensating a victim of rape; they had nothing to do with any criminal trial. The Indian judiciary, which is generally recognized for its support of human rights, has remained silent on the subject of rape laws, which is regrettable and unexpected.

In their criticism of the Justice Verma Committee’s recommendation, the All India Democratic Women’s Association (AIDWA) and other women’s organizations said that “the committee recommended to make the rape gender-neutral offence implying that female can commit sexual assault against a male without any evidence,” despite the fact that nearly 97% of rape victims are women and that the number of female perpetrators of sexual assault is extremely low (PLD, 2013). Noting that the proposal is based on the history of discrimination and that they aim to protect vulnerable communities, the Alternative Law Forum suggested that the term “victim” be expanded and made gender-neutral by substituting a person for women in order to protect members of the queer community. (PLD 2013)

The UN Handbook for Legislation on Violence Against Women encourages countries to define sexual assault as a violence of bodily integrity and sexual autonomy. The United Nations Charter, the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR) are three international legal instruments that they specifically rely on in order to “educate both officials and the general public in these norms, place governments failing to respect human rights on the defensive, and help create and legitimate internal and external pressures for human rights improvement.” (Pathak, 2016)

Under the Indian criminal law, it is presumed that only a woman can be a victim of rape. This arises from the assumption that rape is an act of sex alone to satisfy the sexual desire of the perpetrator (Narain, A., 2013). It is now understood though, that sexual assault

is not only an act of lust and desire but also a manner of showing dominance or superiority of one caste, class, religion, community over the other and are acts of power and humiliation.

The Bhartiya Nyay Sanhita, 2023 states that sexual offences are now selectively gender neutral. For instance: (1) “Sexual harassment” is now only defined as a male offense, while victim’s gender is completely gender neutral; (2) crimes like voyeurism, assault, and using force against a woman with the intention of disrobing are examples of offenses that define victim gender as gender neutral; and (3) only men are assumed to commit crimes like rape and stalking. Moreover, it is forbidden by the BNS to have intercourse with a woman using “deceitful means”. This involves tricking her into marrying you by pretending to be someone else or by promising her a job or career development.

Consider the Sections 76 and 77 of BNS which aim to supplant the IPC’s Sections 354B and 354C. When describing different offences and the parties involved, the IPC frequently uses terminology that is gendered. The IPC expressly states that the victim is a woman and the attacker is a man in sections 354B (use of criminal force to disrobe a lady) and 354C (voyeurism).

Bhartiya Nyay Sanhita, 2023 has been amended to remove gender specifications and allow any gender to be recognized as the prospective wrongdoer by introducing gender-neutral language regarding the perpetrator. However, the victim’s gender is still inflexibly defined as female, highlighting the shortcomings of the legislation. The BNS could have expanded the definition of rape under Section 63 to include victims of any gender by changing the term “woman,” protecting transgender people with male or female sex organs and men who have been sexually assaulted by other men. Section 377 of the Indian Penal Code, enacted after the Navtej incident, should have been kept in place with language changes specifically including protections against sexual offenses that impact LGBTQ+.

The Parliamentary Standing Committee on Home Affairs stated that although Article 14, 15, 19 and 21 of the Indian Constitution are violated by Section 377 IPC, the law was still in effect for non-consensual carnal intercourse with adult, all acts of carnal intercourse with minor, and acts of bestiality. This decision was made by the Supreme Court in the *Navtej Singh Johar v. Union of India* (2018). Bharatiya Nyaya Sanhita (BNS), 2023, did not contain any such provisions for non-consensual sexual offenses against men, women, and transgender people, as well as for bestiality.

“The committee feels that to align with the objectives stated

in the BNS's Statement of Objects and Reasons, which inter alia highlights the move towards gender-neutral offences, it is mandatory to reintroduce and retain Section 377 of the IPC. The Committee, therefore, recommends the government to include Section 377 of the IPC, in the proposed law," it said. (Dasgupta, 2023). An amendment of this kind would have maintained the BNS's genuine inclusivity with regard to sexual violence experienced by LGBTQ+ people and others, while also adhering to the principles and ideals of the progressive realization of rights theory.

Recently in *Varun Bhatia v. State and Anr.* (2023), "The Delhi High Court has outlined how courts should handle "gender-specific laws" and maintain their gender neutrality, stressing that in these situations, the approach should not be biased in favour of one gender over another."

Consequently, it is clear from the aforementioned instances that gender neutrality is crucial and that equality should always prevail when making decisions, with no gender being given preference over another.

In light of this, it is evident that a policy that puts the rights of rape victims ahead of their social status is the best one. Among other things, these rights include the assurance that a person's life and dignity would be protected regardless of their gender. Therefore, rather than being an act that makes victims feel completely ashamed because they have supposedly lost their social honour, it would be more accurate to describe rape as a violation of the victims' bodily integrity and their right to live a dignified life.

Challenges To Be Faced Under Bhartiya Nyay Sanhita

- i. **Lack of protection of male under BNS:** The primary reason for apprehension regarding the Bharatiya Nyaya Sanhita, 2023 is its inability to provide protection for male victims of sexual assault. IPC under Section 377 used to protect "man, woman, or animal" against certain types of violent offenses. However, by passing the BNS, males have given up one of their only defences against becoming victims of sexual assault. After all, the crime of rape is covered by Section 63 of the Bharatiya Nyaya Sanhita, 2023, which is still gendered and assumes that rape may only happen between a man and a woman.
- ii. **Exclusion of LGBTQ+ and Heteropatriarchal bias:** Relationships between individuals of the same sex were recognized by Section 377. But BNS ignores sexual encounters between men and women and instead concentrates on a

woman who is raped by a man. Its heteropatriarchal to think this way. The absence of Section 377 means that individuals who commit crimes will be able to get away with it because they are not bound by any specific section of the law. There would be a lot of misunderstanding, thus the government should be able to file a complaint under the POSH Act, which excludes men and the LGBTQ+ community.

iii. Role of Section 377 in protecting vulnerable communities:

Section 377 of the Indian Penal Code (IPC) prohibits sexual assault against men, LGBTQIA+ individuals, and animals. However, this clause is absent from the revised Bharatiya Nyaya Sanhita (BNS), creating a legal vacuum and raising questions about victim rights. Evidence of adult males abusing transgender men has been documented. In rape cases, the court assumes that the woman has not granted consent if she states so under Section 120 of Bhartiya Sakshya Adhiniyam. However, our laws do not provide basic rights that shield other segments of society from sexual offenses. The absence of Section 377 IPC in the BNS highlights the administration's disregard for concerns and recommendations made by experts and affected parties, as there is no comparable offense for boys under 18 who have experienced sexual assault.

iv. Protection gap for LGBTQ+, Male victims and Transitional challenges:

Non-consensual sexual activities against these groups were illegal under Section 377 of the IPC; however, since Section 377 was removed and the BNS went into effect on July 1, 2025, there is now a legal void. The IPC will continue to pursue crimes committed prior to July 1st, while the BNS, which does not yet have explicit provisions for penalizing non-consensual sexual actions against men or animals, will handle offenses that occur after that date. Because the offense occurred after the deadline, this change may allow offenders to avoid punishment, depriving victims of legal recourse. Furthermore, it violates the idea of equal protection under the law by putting two victims of similar crimes in a situation where they receive unequal treatment simply because of the time the offense was committed. In addition to encouraging additional crimes against vulnerable groups, the absence of unambiguous legal protection may lessen the law's intended deterrent effect. Therefore, even while modernity may have been the goal of revising the penal code, the manner in which this transition is being managed runs the potential of causing serious injustice.

Gender neutralizing current rape legislation would ensure legal protection for all genders, filling the gap left by Section 377's IPC exclusion. This progressive criminal justice system should grant language dignity to all victims, allowing them to seek redress against sexual assault.

Conclusion

The push for gender-neutral rape laws in India is a crucial step towards creating a more inclusive and equitable legal framework that protects all individuals from sexual violence, regardless of their gender or sexual orientation. While significant progress has been made with landmark rulings such as the decriminalization of homosexuality and the enactment of the Transgender Persons (Protection of Rights) Act, there remain substantial gaps in the legal system that need to be addressed, and which could have been addressed in the new criminal law.

Gender-neutral rape laws would ensure that all victims of sexual violence have access to justice and support services, eliminating the biases and limitations inherent in the current legal definitions that predominantly focus on male perpetrators and female victims. Such laws would recognize the reality of sexual violence in all its forms, including those experienced by men, transgender, and non-binary individuals.

In conclusion, the adoption of gender-neutral rape laws in India would be a monumental step towards upholding the principles of justice and equality enshrined in the Indian Constitution. It is imperative that lawmakers, activists, and society work together to create a legal and social environment where every person, regardless of gender, feels protected and valued. By doing so, India can set a powerful precedent in the global fight against sexual violence and affirm its commitment to human rights and gender equality.

Suggestions

- i. **Redefine Rape and Sexual Assault in the Bhartiya Nyay Sanhita:** The definition of rape should encompass all non-consensual sexual acts, regardless of gender, including digital and non-physical forms, acknowledging the evolving nature of sexual crimes.
- ii. **Legal Recognition and Protections for All Genders:** Legal language should explicitly include men, transgender, and

non-binary individuals as potential victims and perpetrators of sexual violence, and ensure consistent penalties regardless of gender.

- iii. **Law Enforcement and Judicial Sensitization:** The government should implement mandatory training programs for law enforcement, judicial officials, and medical professionals on handling LGBTQ+ cases with sensitivity and respect, and develop comprehensive guidelines for sexual violence investigations.
- iv. **Support Services for Victims:** Establishing counselling, medical care, and legal aid services that cater to all victims of sexual violence, ensuring accessibility and sensitivity to the needs of LGBTQ+ individuals.
- v. **Public Awareness and Education Campaigns:** A nationwide campaign should educate the public on gender-neutral rape laws and consent, introducing an integrated curriculum into schools and colleges to promote a culture of respect and understanding.
- vi. **Monitoring and Evaluation Mechanisms:** An independent body should oversee the implementation and effectiveness of gender-neutral rape laws, regularly reviewing and adjusting enforcement based on feedback from victims, activists, and legal experts.
- vii. **Data Collection and Research:** Collection and publication of comprehensive data on sexual violence incidents across all genders to inform policy and improve response, and managing research to guide further legal reforms.

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